

**CITY OF NEWARK
DELAWARE
COUNCIL MEETING MINUTES**

February 25, 2019

Those present at 6:00 p.m.:

Presiding:	Mayor Polly Sierer District 1, Mark Morehead District 2, Jerry Clifton District 3, Jen Wallace District 4, Chris Hamilton District 5, Jason Lawhorn
Absent:	District 6, Stu Markham
Staff Members:	Acting City Manager Tom Coleman City Secretary Renee Bensley City Solicitor Paul Bilodeau Acting HR and Labor Relations Manager Mark Farrall Assistant to the Manager Mark Brainard Finance Director David Del Grande Sergeant Greg D’Elia Parks and Recreation Director Joe Spadafino Planning and Development Director Mary Ellen Gray Planner Michael Fortner Acting Public Works and Water Resources Director Tim Filasky Mechanic Dave Vispi

1. Ms. Sierer called the meeting to order at 6:00 p.m.

2. **EXECUTIVE SESSIONS**

- A. Executive Session pursuant to 29 Del. C. §10004 (b) (4) and (9) for the purposes of a strategy session, including those involving legal advice or opinion from an attorney-at-law, with respect to pending or potential litigation, but only when an open meeting would have an adverse effect on the litigation position of the public body and discussing personnel matters in which the names, competency and abilities of individual employees are discussed.
- B. Executive Session pursuant to 29 Del. C. §10004 (b) (4) and (9) for the purposes of a strategy session, including those involving legal advice or opinion from an attorney-at-law, with respect to pending or potential litigation, but only when an open meeting would have an adverse effect on the litigation position of the public body and discussing personnel matters in which the names, competency and abilities of individual employees are discussed.
- C. Executive Session pursuant to 29 Del. C. §10004 (b) (4) and (6) for the purposes of discussion of the content of documents, excluded from the definition of “public record” in §10002 of this title where such discussion may disclose the contents of such documents and discussing personnel matters in which the names, competency and abilities of individual employees are discussed.

MOTION BY MR. MOREHEAD, SECONDED BY MS. WALLACE: TO ENTER EXECUTIVE SESSION FOR THE PURPOSES OF A STRATEGY SESSION, INCLUDING THOSE INVOLVING LEGAL ADVICE OR OPINION FROM AN ATTORNEY-AT-LAW, WITH RESPECT TO PENDING OR POTENTIAL LITIGATION, BUT ONLY WHEN AN OPEN MEETING WOULD HAVE AN ADVERSE EFFECT ON THE LITIGATION POSITION OF THE PUBLIC BODY AND DISCUSSING PERSONNEL MATTERS IN WHICH THE NAMES, COMPETENCY AND ABILITIES OF INDIVIDUAL EMPLOYEES ARE DISCUSSED PURSUANT TO 29 DEL. C. §10004 (B) (4) AND (9); FOR THE PURPOSES OF DISCUSSION OF THE CONTENT OF DOCUMENTS, EXCLUDED FROM THE DEFINITION OF “PUBLIC RECORD” IN §10002 OF THIS TITLE WHERE SUCH DISCUSSION MAY DISCLOSE THE CONTENTS OF SUCH DOCUMENTS AND DISCUSSING PERSONNEL MATTERS IN WHICH THE NAMES, COMPETENCY AND ABILITIES OF INDIVIDUAL EMPLOYEES ARE DISCUSSED PURSUANT TO 29 DEL. C. §10004 (B) (4) AND (6).

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Lawhorn, Hamilton, Morehead, Sierer, Wallace.
Nay – 0.
Absent – Markham.

3. RETURN TO PUBLIC SESSION

A. Potential Vote on Hiring Special Counsel

0:21

Council exited Executive Session at 7:00 p.m. Ms. Sierer asked the table if there were any motions from Executive Session.

MOTION BY MR. CLIFTON, SECONDED BY MR. LAWHORN: FOR THE CITY TO RETAIN THE SERVICES OF JOHN J. KLUSMAN, ESQUIRE, AS SPECIAL WORKERS COMPENSATION LEGAL COUNSEL FOR THE EPPS CLAIM.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Lawhorn, Hamilton, Morehead, Sierer, Wallace.
Nay – 0.
Absent – Markham.

4. B. POTENTIAL VOTE ON DISABILITY PENSION

1:08

MOTION BY MR. CLIFTON, SECONDED BY MR. LAWHORN: THAT COUNCIL AUTHORIZE THE EMPLOYEE DISABILITY PENSION BENEFIT AS SET FORTH IN THE ACTING DEPUTY CITY MANAGER'S MEMO TO COUNCIL DATED JANUARY 29, 2019 AS OUTLINED IN EXECUTIVE SESSION.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Lawhorn, Hamilton, Morehead, Sierer, Wallace.
Nay – 0.
Absent – Markham.

5. Ms. Sierer asked for a moment of silence and the Pledge of Allegiance.

6. 1. PUBLIC PRESENTATIONS:

A. The Newark Partnership Update – Dr. Daniel Rich

2:09

Dr. Rich announced he had important news to share with Council regarding The Newark Partnership. Most importantly, Dr. Rich confirmed The Newark Partnership, Inc. (TNP) now existed. He said the TNP was now incorporated and expressed the State of Delaware approved the certificate of incorporation on December 31, 2018. Dr. Rich announced TNP was at the next stage of proceeding to file the necessary documents to achieve confirmation of 501(c)(3) status as a charitable nonprofit organization. Because TNP existed, Dr. Rich said they were able to move ahead with the very first meeting for the new partnership. Dr. Rich informed the audience TNP's first meeting took place on [Tuesday] February 19, 2019. He stated the assembly of people who came together included members of the current transition board and many members of the public. Dr. Rich believed the most important action that was taken was the approval of the bylaws. He provided copies of TNP's bylaws at the dais for Council.

According to Dr. Rich, TNP's bylaws were compact, concise and covered the core areas of responsibility for the governance of the institution and methods of operation. He stated the provisions called for the ability to amend the bylaws through a majority vote of the Governing Board. Dr. Rich explained the individuals who were listed in the certificate of incorporation operate as the Transition Governing Board for the first six-months. After the first six-months (effective July 1, 2019), Dr. Rich announced the Governing Board's configuration would be implemented as mentioned in the bylaws. Around the same time, Dr. Rich said TNP would go through the process of electing officers and following through with related procedures in the bylaws. The new board would take offers in July 1, 2019; moreover, those appointed would serve according to the terms stipulated in the bylaws.

Dr. Rich stated there were four committees that were established as part of TNP; specifically, three committees were established through the bylaws themselves. According to Dr. Rich, the three committees established through the bylaws represented the areas that defined the nature and purposes of TNP (i.e. Economic enhancement, nonprofit enhancement and civic engagement). Chris Locke, Chris

Duke and Heidi Martelock were set to chair the Economic Enhancement Committee. The Nonprofit Enhancement working group would co-chaired by Carla Grygiel and Freeman Williams. Finally, Dr. Rich said Paul Keely and Carol McKelvey would co-chair the Civic Engagement working group. Dr. Rich announced the Economic Enhancement working group was focused on conducting an inventory of businesses throughout the City. He expressed the Economic Enhancement working group hoped to build off a database of businesses from the City. Furthermore, Dr. Rich said the intent was to find out from the businesses [in the City's database] what they did as well as what their priorities and needs are. Dr. Rich said the Economic Enhancement Committee would spearhead this effort.

According to Dr. Rich, the Nonprofit Enhancement working group had a parallel task to the Economic Enhancement working group. Dr. Rich believed no one really knew the answer to this question. For this reason, Dr. Rich announced the preliminary assessment revealed there were quite a few nonprofits in the City. So far, approximately 130 nonprofits were identified in the City. As the Nonprofit Enhancement working group went through the process of identifying and engaging the nonprofits, Dr. Rich believed they would be connected with other nonprofits. Dr. Rich announced there was a large nonprofit sector that served the community of Newark and thought it was important to know more about it. He clarified it was important to identify the nonprofits' needs to determine how the Nonprofit Enhancement working group could be of assistance. Dr. Rich announced the Nonprofit Enhancement working group's key objective was to figure out how they could translate their efforts to be utilized as a resource guide that could be put online. This resource guide would provide better access for Newark's residents regarding what services were available to them in the nonprofit sector. The Civic Engagement working group was tasked with building a base of participation from across the different segments of the City. Moreover, Dr. Rich announced it was important to create a base of participation as opposed to depending on people who showed up at meetings. Dr. Rich said the Civic Engagement working group would work with civic associations and other groups across the City. Most importantly, community conversations would be promoted; moreover, regarding areas that might concern Newark as a whole or a particular part of the City.

Dr. Rich stated The Newark Partnership's (TNP) first official meeting of the Governing Board took place on February 19th, 2019. A fourth committee was added at this meeting. Dr. Rich described the fourth committee was different since it was not a standing committee; moreover, it was a committee of the board. Dr. Rich expressed the bylaws gave the board the authority to create committees; therefore, an Events Committee was created. He believed the Events Committee was necessary to facilitate communication and coordinate with the three other committees (The Economic Enhancement, Civic Engagement and Nonprofit working groups). Dr. Rich said the Events Committee was brand new; therefore, the committee was not organized yet. He announced event planning required significant lead-time and a lot of participation. Dr. Rich expressed the Events Committee would want to work with the City's Parks and Recreation department to ensure successful event coordination.

He informed the audience a beta-version of a website for TNP was available and provided the following address: www.thenewarkpartnership.org. Right now, TNP's website was under a review process by the Governing Board. When the Governing Board thought the website was coherent, Dr. Rich announced the website would be made public in order to be a resource. The website would be a resource for both the TNP and additional information on parts of the community that were connected with TNP. Dr. Rich said an e-newsletter was being developed and would be available [perhaps] after TNP's March meeting. He clarified TNP sent out newsletters to the people who came to the Newark Futures workshop (September 25, 2018) and informed the public the newsletters would continue to be sent out to the community. Dr. Rich announced TNP currently was in the process of developing a business plan. One of the first steps in the development of a business plan required TNP to utilize individuals who had expertise [in developing a business plan]. Dr. Rich informed the audience TNP was fortunate to have assistance from individuals at the University's Lerner College of Business. Dr. Rich stated graduate students from the Lerner College of Business had a system underway to evaluate and develop proposals to bring them back to a general session of the Governing Board to be considered in a public meeting.

Since TNP officially existed, Dr. Rich said TNP would follow up with additional founding sponsors (i.e. the University and others). Dr. Rich emphasized TNP appreciate the startup funding received from Council. He clarified there would be no invoice for the funds until the TNP's Governing Board developed, reviewed and approved their budget. Dr. Rich thought the budget would not be ready for some months; however, the budget would be made methodically and hoped the budget would be ready by July 1st at the beginning of the fiscal year. Dr. Rich expressed the question was presented regarding why TNP would utilize membership fees if they received support from the City. According to Dr. Rich, the plan for TNP was for it to be a membership supported organization. Dr. Rich informed the audience it took a while for organizations to become membership supported; furthermore, it would likely take a number of years to establish this. Dr. Rich announced the City took the lead in providing start-up funding and stated funding

from the City and other founders would assist TNP in its transition period as it moved towards becoming a membership-based organization. TNP was in the process of reviewing membership models which would encompass the organization's diversity. Dr. Rich expressed the various models would be presented to the Governing Board.

Dr. Rich believed TNP engaged everyone who indicated they wanted to be engaged; furthermore, TNP would continue efforts to engage others. He emphasized everyone would be invited to participate and that no one would be turned away from any function. Dr. Rich announced benefactors often wished to receive benefits directly. Additionally, there were other benefactors who did not want the benefits directly and supported TNP because they believed in the function and purpose of the institution. Dr. Rich informed the audience the University's Community Engagement Initiative (CEI) would continue to support TNP's development. He emphasized the support from the University's CEI began since the Strategic Planning Committee was established. Dr. Rich stated the University was committed to continue supporting TNP as part of a public service function. The TNP's original contract, original fee for service and the original administrative/overhead charge was part of the University's public service function. At the conclusion of the transition process, Dr. Rich said TNP would be more independent and University would assume a supportive role. Dr. Rich announced the Governing Board's next meeting was scheduled for 6:30 p.m. at the Newark Senior Center on March 21, 2019. The next Newark Futures workshop was scheduled for 6:00 p.m. on Wednesday, May 22, 2019 at the STAR Campus tower. Dr. Rich said the workshop's focus would be on Newark's nonprofit sector; specifically, how the nonprofit sector could be strengthened as well as what the nonprofit sector contributed to those who were part of Newark's community. Dr. Rich stated public notice for these meetings would be provided.

Ms. Sierer thanked Dr. Rich and opened discussion to the table.

Mr. Clifton asked for clarification regarding the TNP's bylaws and noted he wholeheartedly supported the organization. He questioned whether the length of terms for TNP's board members was decided. Dr. Rich announced there would be an appointment cycle after the transition cycle was over. Mr. Clifton said he favored boards that represented the City's diversity. Mr. Clifton thought it was appropriate for TNP to have a requirement for six board members as there were six districts in the City. Mr. Clifton suggested for TNP to have representatives from the various geographical and political boundaries in the City. Mr. Clifton informed Dr. Rich he heard people were concerned that TNP was heavily focused on the Main Street area. He encouraged Dr. Rich to consider electing a board member that represented shopping centers. Mr. Clifton asked for clarification regarding the board's open meetings. Dr. Rich clarified all meetings of the board would be open to the public. Once the membership structure of TNP was established, Dr. Rich expressed everyone would be made aware of all meetings. Dr. Rich hoped more participation from the public would occur. Mr. Clifton believed significant conversation regarding alternate communication occurred. Whether it be email or calling-in, Mr. Clifton said he personally attended meetings where people called in when he was in the military. Mr. Clifton questioned whether TNP would make information public regarding calling in to meetings or correspondence by email. Dr. Rich confirmed it was TNP's intention for this information to be made public. An open line was provided at the Governing Board's last meeting on February 19, 2019; however, Dr. Rich informed the audience they turned on the line and no one utilized it.

Dr. Rich expressed TNP was in the process of developing a schedule that fit the time constraints of the members of the current board. He believed it was important to establish a schedule and project the schedule ahead so people could plan around it. Dr. Rich thought the Governing Board's members were committed to make TNP an inclusive environment. Mr. Clifton appreciated the fact that bylaws specified two unexcused absences were permitted per year. Mr. Clifton asked for clarification regarding the bylaws to the effect it mentioned each organization would determine the procedural rules for the meeting. Dr. Rich acknowledged Mr. Clifton's statement and stated initial responsibility was given to the committees to make recommendations. Dr. Rich announced a majority vote of the Governing Board was required to make any changes to procedural rules and bylaws. This design was intentional in nature because Dr. Rich anticipated there would be many changes over the years. Dr. Rich announced TNP's bylaws would be streamlined to the government's essential procedures; moreover, policies would be developed after this point. Dr. Rich said this would enable policies to be changed and would not require changes to bylaws with each policy change. He emphasized suggestions from Council were welcomed.

Mr. Morehead thanked Dr. Rich for providing Council with the bylaws. After Council had a chance to thoroughly review the bylaws, Mr. Morehead believed there would be substantive discussion. Mr. Morehead announced he specifically was curious about the Community Engagement Initiative (CEI); specifically, he thought the CEI was not based on TNP. Dr. Rich confirmed the CEI and TNP were separate entities. Dr. Rich restated the CEI was a program by the University that was associated with the Provost's office. Dr. Rich clarified the CEI was not only devoted to TNP, but to a series of partnerships throughout

the State. He announced the CEI had partnerships with Public Education, Public and Healthy Communities, Arts and Culture and two partnerships in the City of Wilmington. Dr. Rich told the audience a good deal of work was spent connecting UD's faculty, staff and students to address communities' needs around the State and beyond. Dr. Rich expressed TNP was essential and announced the CEI would continue to support it. Mr. Morehead thought the first Newark Futures Workshop implied the CEI had nothing to do with TNP. Mr. Morehead believed the Newark Futures Workshop was well received and people laid out three distinct things they wanted to see. However, Mr. Morehead stated TNP did not address what was identified in the Newark Futures Workshop as it addressed something else. For these reasons, Mr. Morehead said he was interested to see the ongoing life of the CEI as he originally understood it to be.

Dr. Rich restated the CEI intended to operate in support of TNP and other partnerships. Currently, Dr. Rich expressed the CEI was the underlying staff (i.e. a secretarial position was provided). Dr. Rich said the Newark Futures workshops were expected to continue into the future. Dr. Rich stated the three key priorities identified in the Newark Futures workshop routinely came up and were expressed in different ways. First, more effective collaboration and coordination between the University and City was identified particularly in regard to planning. Dr. Rich announced the next Newark Futures workshop focused on the University's presentation of planning at that time and the City reflected on their own plan. Dr. Rich informed the audience he had been a resident of Newark for nearly 40 years; however, the Newark Futures meeting was the only time he was aware that the City's and University's plans were discussed simultaneously in a broad and open audience. Dr. Rich announced strengthening public education was another item that was prioritized. He stated one of the focal points of TNP's Nonprofit Committee was to determine how they could help mobilize some portions of the nonprofit sector to more effectively support public education. Dr. Rich expressed the principal of Newark High School [Aaron Selekman] was actually a member of the Nonprofit Committee. He emphasized the Nonprofit Committee would connect with the partnership for Public Education.

Finally, Dr. Rich stated affordable housing in the City was identified as a priority. Dr. Rich personally believed the City was not at the point to address this issue until analysis and engagement of others were addressed. Messrs. Morehead and Hamilton had the opportunity to meet with representatives from the Delaware Alliance for Nonprofit Associations. According to Mr. Morehead, the Delaware Alliance for Nonprofit Organizations had a tremendous amount of information which he believed would be beneficial for TNP. Dr. Rich agreed with Mr. Morehead to the effect he thought Newark's nonprofits would benefit from the resources available from the Delaware Alliance for Nonprofit Organizations.

Ms. Wallace asked for further clarification regarding the term City-wide as she believed the description was vague. She suggested clarification needed to be provided as to whether City-wide referred to the corporate limits of the City of Newark or whether it referred to the greater Newark area. Ms. Wallace believed the geographic terms lacked specificity because she thought it could define both the corporate limits of the City of Newark or the greater Newark area. Dr. Rich informed Ms. Wallace TNP currently worked on what was included in the transition documents; therefore, he deferred to the Governing Board on this issue. According to Dr. Rich, he expressed the term City-wide currently referred to operations within the City limits. He acknowledged TNP might determine the boundaries as currently defined were not functionally appropriate. Ms. Wallace said certain areas of the City were within NCC's corporate limits as opposed to Newark's limits. Dr. Rich stated there were many nonprofit organizations that operated in Newark; however, they were incorporated elsewhere.

Mr. Hamilton thanked Dr. Rich for his efforts with TNP as well as for keeping Council informed. He echoed Mr. Clifton's statement regarding the bylaws which mentioned all meetings of the full board would be open to the public with dates and locations provided. Mr. Hamilton was concerned with a provision of the bylaws which stated all meetings of the board were open to members of the corporation. He wanted to ensure it was clear all board meetings would be open to the public. Dr. Rich confirmed the language could be clarified; however, he emphasized proper notice would be given. He announced there was a stipulation in the bylaws which required TNP to inform corporate members of public meetings. Dr. Rich emphasized this provision referred to something that did not yet exist since the membership structure was not established. He welcomed suggestions for clarification from Council. Mr. Hamilton announced he had been part of boards that started out with good intentions; however, the good intentions were hijacked. Mr. Hamilton believed it was important to implement measures to protect the integrity of TNP for years to come. He recommended TNP record their meetings as he attended meetings where things were said that did not always make it into the meeting minutes.

Mr. Hamilton echoed the concerns of Ms. Wallace regarding TNP's definition of City-wide. He described the makeup of TNP's board as a 3:1 ratio of Main Street businesses to other areas. Dr. Rich confirmed the makeup of TNP was not stipulated in a 3:1 ratio. Dr. Rich reissued the invitation and

requested Council to recommend individuals to work with TNP; specifically, on the Governing Board and committees. According to Dr. Rich, some of the most challenging work would occur the committees. Dr. Rich believed TNP would not be an effective community-based organization without community participation. He acknowledged people seemed to have an affinity for different committees; moreover, a couple people switched from one committee to another. Mr. Hamilton said the areas of Suburban Plaza, STAR Campus, Fairfield and others needed to be represented in TNP. Furthermore, Mr. Hamilton believed it was necessary for the money donated by Council to be utilized by TNP in all areas of the City [not favoring one section]. Dr. Rich believed it was necessary to address how TNP would ensure it represented the entire City. First, Dr. Rich believed aggregate data estimated there were approximately 150 businesses in the City limits as defined as nine square miles. While Dr. Rich said they were unsure if this number was precise, he thought it was fair to say both the City and TNP did not know much about the 150 businesses. Dr. Rich restated it was important for the Economic Development Committee to perform an inventory. He believed TNP would find out more things about the business community in Newark which might provide a different perspective. Dr. Rich thought this also was the case for the nonprofit sector.

Dr. Rich believed TNP needed assistance to help more members of the community engage in the Civic Engagement process. Dr. Rich said TNP worked with the City's civic associations; furthermore, TNP would continue to invite the civic associations to work with them. Mr. Hamilton appreciated the fact there were many new faces on TNP's Governing Board. According to Mr. Hamilton, he described many of the City's previous boards as limited in their scope of people. Mr. Hamilton referenced the fact Mr. Morehead, Meghan Mullennix and others were on the Governing Board and hoped TNP would receive many helpful ideas.

Ms. Sierer opened discussion to the public.

Catherine Ciferni, District 2, thanked Dr. Rich for answering her questions presented for the record at the January 28, 2019 Council meeting. She told Dr. Rich she would eventually like further clarification on the issue of membership verses donation. As a 501(c)3, Ms. Ciferni expressed concern with the membership as she believed conflicts of interest might evolve. Ms. Ciferni understood Dr. Rich's explanation that donation might be a better definition than membership. On the old Downtown Newark Partnership (DNP), Ms. Ciferni was concerned with what she believed to be two issues. According to Ms. Ciferni, she claimed people who were appointed to the DNP would often develop activities that favored their specific business. As Newark grew macroeconomically, Ms. Ciferni thought the DNP's board did not follow a similar trajectory. Ms. Ciferni believed the City had become more international and the businesses in the City became international as well. It was Ms. Ciferni's opinion that the DNP did not represent the international businesses and trajectory of the City; therefore, she hoped TNP would be more representative in this matter. Ms. Ciferni wished to see less conflict of interest on TNP than she believed existed in the DNP. She expressed concern that the University's development at STAR Campus and student housing to the effect she did not believe it should run counter to businesses or people who were represented on the Transition Board. In terms of determining how many 501(c)3 nonprofit organizations were filed in Newark, Ms. Ciferni suggested Dr. Rich could look at the tax status at the State level and work backwards. Ms. Ciferni also believed the nonprofit organizations should not conflict with the business interests.

Dr. Rich said TNP looked at the tax status at the State level for the 501(c)3 organizations; however, the information provided was problematic since it did not tell where the 501(c)3 organizations were located as well as what they did. Dr. Rich expressed a spatial analysis was conducted in the City of Wilmington which revealed there were 550 nonprofits offering 1,200 programs within Wilmington's city limits. Dr. Rich believed it would be possible to conduct a similar analysis for the City; however, he explained the data would not be obtained from 990 forms. On the 990 forms, Dr. Rich announced categories were not provided. He expressed the first 990 form did not list churches and faith-based organizations. Dr. Rich thought it was important to evaluate TNP on its own functions instead of evaluating it based on the Downtown Newark Partnership (DNP). Dr. Rich announced TNP's Governing Board hoped to retain people who wanted to contribute to the new organization. He agreed with Ms. Ciferni's concern to the effect TNP needed to be very careful about conflicts of interest.

John Morgan, District 1, wished to follow up on some comments made by Messrs. Clifton and Hamilton. Dr. Morgan referenced the Conduct of Business section in TNP's bylaws [article two, section six] which used the phrase, "full board". He thought the term "full board" was ambiguous and believed it did not refer to a meeting where every chair in the room would be full. Dr. Morgan recommended the term "full board" to be reworded so that it referred to a meeting attended by a quorum of board members. Dr. Morgan also shared concerns related to how TNP could evolve. While he did not believe it was anyone's intention, Dr. Morgan thought TNP was similar to another large organization in Newark. He described this organization to the effect all the important decisions were made behind closed doors in committee

meetings; furthermore, the decisions were rubber-stamped at full board meetings. Dr. Morgan thought it was possible for the same actions to take place with TNP due to the structure of its current bylaws. He quoted the bylaws section on Committees Conduct of Business [section four (d)], “Committees are not required to meet formally to take action and such committees may take action through a telephone meeting through electronic communication, by written consent or otherwise.” Dr. Morgan thought the term “otherwise” could basically mean anything.

Dr. Morgan believed there did not seem to be many opportunities for public observation or engagement; specifically, if the meeting occurred by members of the committee exchanging email messages. Dr. Morgan urged Council and Dr. Rich to give serious thought to this matter and believed it would be better for the committee meetings to be face to face. Moreover, Dr. Morgan thought the meetings needed to be open to the public with the opportunity for public comment.

There were no further comments from the public.

Ms. Sierer thanked Dr. Rich for the presentation on TNP.

7. 2. ITEMS NOT ON PUBLISHED AGENDA

A. Elected Officials who represent City of Newark residents or utility customers

50:05

State Representative John Kowalko greeted Ms. Sierer and Council and said he attended the Council meeting mainly to observe; however, he wanted to address recent articles in the Newark Post. He referenced Newark Post’s articles where the topic of whether LLC licensees could maintain the right to vote was discussed. Representative Kowalko unequivocally stated both he and the State legislature held the autonomy of local governments in the highest regard. He described the autonomy of local governments as a double-edged sword. Representative Kowalko said Council could decide to change something or not to change it despite how the State government felt or acted. According to Representative Kowalko, he would hardly endorse or support decisions by Council that went against the State. However, if Council wished to remedy something by resolution – which might look or serve as an unfair practice by diluting the voter public right – Representative Kowalko believed State legislature might support it. Representative Kowalko referenced the Rehoboth Beach/Schwartzkopf resolution which passed unanimously. Representative Kowalko stated the town of Rehoboth had at one point considered an ordinance to expand the voting rights of LLC’s. The proposal was made by a member of Rehoboth’s City government and the resolution corrected the excess and let the LLCs vote. If Council wished to consider a charter change, he suggested Council consider the Rehoboth/Schwartzkopf resolution and look at how it addressed circumstances of LLCs and other entities that were given a right to vote.

Representative Kowalko said he worked with Nick Wasileski many times regarding LLCs and referenced the “unforgiving nature of the beast that was created”. (*Secretary’s note: Nick Wasileski is the president of the Delaware Coalition for Open Government*) While the provisions for LLCs provided much value to the business community, Representative Kowalko believed the provisions were also abused in many ways. He assured Council that if they brought a reform of LLC voting as an issue of voter rights, he would personally sponsor the bill and guaranteed he would be able to get it passed. He believed it was not the interest of State legislature or any governing body to disaffect communities at the local level. Representative Kowalko thought it was necessary for the local authorities and members of Council to have level-headed discussions with the State legislature. He expressed his interest was to keep Council’s and the community of Newark’s interests intact.

Mr. Clifton asked Mr. Coleman when Council could expect to see charter changes. Mr. Coleman said charter changes would be presented in two groups. For the first group, there were some changes where enough direction was given, and they were ready to move forward. Mr. Coleman said the second group required additional research before moving forward. According to Mr. Coleman, the matter of LLCs voting rights fell under the second group. Mr. Coleman announced HB 34 passed and stated it was a different model than what was previously considered by City staff. He stated his current plan with Ms. Bensley was to bring the resolution for the easier charter changes forward. At that time, Mr. Coleman announced a discussion would occur about the particular issue of the LLCs and any others that could be brought together in time. Mr. Coleman announced a second resolution would be provided at a later date which would contain the LLC matter and other more controversial matters.

Representative Kowalko echoed Mr. Coleman’s statements regarding HB 34. He thought HB 34 was a good example for Council and the City to look at for potential changes to Newark’s charter. Representative Kowalko referenced a specific section of HB 34 which referred to LLCs and entities; specifically, he believed the basic part of the LLCs could be obtained and utilized as a model for the City.

8. 2-B. UNIVERSITY
(1) Administration

56:02

Ms. Olsen greeted the audience and stated it was announced earlier today that John Long was named the Executive Vice President and Chief Operating Officer for the University. She stated Mr. Long's appointment would be effective as of March 11, 2019. Ms. Olsen informed the audience Mr. Long currently worked as the Chief Operating Officer and Special Advisor to the Senior Vice President of Strategic Financial Strategy at the University of South Florida. Ms. Olsen asked for Council's patience since a new administrator would bring new opportunities and challenges. On Friday, March 1, 2019, President Assanis was scheduled to moderate a fireside chat discussion on improving America's health. The discussion would be between Senator Chris Coons and Dr. Francis Collins, Director of the National Institute of Health (NIH). Ms. Olsen said the discussion was free and open to the public at would take place at 11:15 a.m. in Mitchell Hall. Advanced registration was required and could be accomplished through the University's main research website. Ms. Olsen announced the discussion also would be livestreamed.

Ms. Olsen was sad to report the Lights, Camera, Earth Film Festival would not take place this year. She encouraged the audience to attend the Women's History Month Film Festival which began Monday, February 18th and would continue through Monday, March 18th. The Women's History Film Festival took place from 7:00 p.m. – 10:00 p.m. at 004 Kirkbride Hall. Ms. Olsen said further information was available through the University's History Department. She emphasized the event was free and open to the public. Ms. Olsen thought it would be great if the City could partner with the University on a "Utilizing UD" page on the City's website. She acknowledged the City was in transition with the Communications Department; however, Ms. Olsen thought the University was a great resource for economic development. Additionally, Ms. Olsen believed the University could help entice families to move to Newark. Ms. Olsen thought she would be able to help develop a proposal; however, she imagined the page would include links to housing, where different clinics were located (i.e. Physical Therapy Clinic) or an Agricultural page where people could learn how to contact Master Gardeners. Ms. Olsen acknowledged the collaboration between the City and University would require effort; however, she believed it would be worth it. Ms. Olsen clarified her intent was not to infringe on the City's website, but to make information more accessible to the public.

Ms. Sierer opened the discussion to the table.

Mr. Hamilton expressed he favored Ms. Olsen's idea to increase communication between the City and the University. He believed the City and University were growing together and appreciated Ms. Olsen's efforts in this matter. Mr. Hamilton thanked Ms. Olsen for meeting with the Old Newark Civic Association (ONCA) on Monday, February 18, 2019. Overall, he observed significant progress with the City and University in regard to communication.

Ms. Wallace asked Ms. Olsen if the International Film Festival would still occur. She welcomed a discussion for the potential to add University information on the City's website; however, Ms. Wallace wanted to be sensitive about making more work for City staff.

Mr. Morehead thanked Ms. Olsen for providing the opportunity for individuals to attend the Women's History Film Festival. He believed it was important for people to learn about history so they would not repeat mistakes of the past. Mr. Morehead thought green and environmental topics were one the University's main focus areas; therefore, he hoped the Lights, Camera, Earth Film Festival would return. He thought the City website could assist to build momentum in order for the festival to return.

Mr. Clifton said he spoke with Ms. Olsen over a month ago regarding the willingness of the University to offer their service lots while Main Street would be refurbed. He asked Ms. Olsen if the conversation went any further. Ms. Olsen noted the conversation as a tough one. She personally paid for her parking spot for 365 days each year. Ms. Olsen expressed she would be upset if she pulled into a lot that she paid for and was unable to get a spot due to other individuals parking there. She thought the City and University parking teams needed to come together in order to identify specific areas where people would be able to park. Ms. Olsen said marketing would need to be addressed and how the solution would work for both parties. She did not want the City or University's parking revenue to take a hit; therefore, she thought they needed to look at the numbers in certain lots to identify open space. Ms. Olsen was happy to look into this matter. Mr. Clifton believed UD's cooperation with this parking matter would help the City's business community. He clarified he was not thinking about reserved parking lots; however, he considered more generalized lots off North Chapel Street or behind composites off Haines Street. Ms. Olsen thought the University could do a better job to market their nights and weekends parking passes that were open to the public. She thought language could be developed so staff who worked on Main Street would understand how to obtain this parking pass and where it applied. Mr. Clifton thought it would be beneficial to set up a meeting with the University and City's parking departments as soon as possible.

9. 2-B-2. STUDENT BODY REPRESENTATIVE:

1:03:35

Meghan Mullennix, Student Government Representative and District 4 resident, informed the audience the next movie for the Women in Film Series was the Oscar-nominated R.B.G. film. The movie would be shown on Monday, March 4, 2019 at 7:00 p.m. She believed University History professors offered commentary after each film in the series. Ms. Mullennix appreciated she was given the time to present issues that concerned students and asked to speak on the Unruly Social Gathering Ordinance (Item 3-I on the consent agenda). Ms. Mullennix supported the goal of the ordinance. Ms. Sierer informed Ms. Mullennix the consent agenda was not open for public comment since it was the First Reading; moreover, the public hearing in this matter was scheduled for the Council meeting on March 11, 2019 at which time public comment was permitted. Ms. Wallace asked if Ms. Mullinex could submit written comment for Council to read during public comment at the Council meeting on March 11th. Ms. Mullennix said she was unable to attend the Council meeting on March 11th. Additionally, she wondered what good her comments would be if they were submitted to Council around 15 minutes prior to a vote. Ms. Sierer asked Ms. Mullennix if she could provide her comments to Council on this matter in the next couple of days. Ms. Mullennix agreed to type up her comments and submit them to Council.

10. 2-D. COUNCIL MEMBERS:

1:05:25

(Secretary's note: Item 2-D occurred prior to item 2-C)

Mr. Hamilton:

- Mr. Hamilton acknowledged Ms. Mullennix's comment where she asked what good it would be to provide feedback to Council just before they voted on an item. He expressed this was one of his frustrations as a Council member; specifically, he favored more lengthy discussions. Mr. Hamilton asked Ms. Mullennix to submit her feedback on the Unruly Gathering Ordinance in writing and expressed Council might address the timeliness of comments in the future.
- Mr. Hamilton said there was some discussion about the pedestrian crossing on Barksdale Road. Along with Mr. Morehead and Ms. Wallace, he attended a meeting with staff to discuss this subject among others. Mr. Hamilton stated staff met with DeIDOT after they heard Council's concerns. Additionally, both he and Mr. Morehead met with the owners of Newark Day Nursery to discuss their concerns. Mr. Hamilton believed they were close to a solution. Mr. Coleman said staff currently was working with DeIDOT to address this issue. Mr. Hamilton hoped Council would be able to provide a good announcement soon on this matter as there were many children that used the crosswalk to access the park. He described Barksdale Road as very wide and acknowledged there were issues at that location in the past.
- He announced Council held several discussions with staff regarding potholes in the area. Mr. Hamilton informed the audience Newark had State roads that ran through the City. He said City staff were responsible for the City's roads while DeIDOT was responsible for many of the main roads throughout the City (i.e. Main Street, Delaware Avenue, South College, and Routes 273 and 896). Mr. Hamilton appreciated the public's patience regarding potholes during this time of year as the City was challenged if City staff utilized their own man power and expenses to fill State potholes (as well as the City's potholes). Mr. Hamilton informed the audience they were able to call DeIDOT and report a pothole on State roads; however, the response time regarding repairs to potholes was quite ambiguous. Mr. Hamilton reminded residents to be patient with State pothole repair as the State was required to make repairs to roads throughout the State of Delaware. Mr. Hamilton believed staff and Council were close to a solution and thought it would be a win-win for everyone. Mr. Hamilton asked Mr. Coleman if he had observed City staff making repairs to State potholes. Mr. Coleman confirmed this was the case. Mr. Hamilton referenced the pothole underneath the bridge on Casho Mill Road. He informed the audience they were aware of this concern and were in the process of finding a solution to address the matter. Mr. Hamilton encouraged the public to bring these matters to Council as it was the best way to announce the problem in order to find solutions.
- Mr. Hamilton thanked the University and expressed appreciation for the challenges Newark faced as a university town. He emphasized there were many opportunities for the City and University to collaborate and expressed many of the [University's] events were open to the public. Mr. Hamilton said he attended a University-sponsored Civic Engagement Summit in the Delaware Public Schools. He described the summit as personally eye-opening, considering the fact he was a Political Science and Geography major and minor in History from the University. Mr. Hamilton informed the audience his appointment to Council was his first venture into politics. According to Mr. Hamilton, he thought civics education was lacking in Delaware's public schools. Mr. Hamilton hoped this issue could be addressed in The Newark Partnership (TNP); moreover, working with nonprofits and the schools as well to expand civics education. He informed the audience he had the privilege of sitting next to the National Teacher of the Year, a fourth-grade teacher from the Brandywine School District. Mr. Hamilton believed every teacher in the room wanted more civility in the country and better-educated folks talking about civics.

Mr. Hamilton thought much discussion in the Country resorted to name-calling and finger-wagging. For this reason, he believed people had forgotten how to cooperate and figure out solutions. Mr. Hamilton thought public education was partially responsible for this matter; specifically, he believed teachers sometimes mentioned they were afraid to talk about tough subjects. Therefore, Mr. Hamilton thought students were not exposed to any other perspective than their own. According to Mr. Hamilton, social studies was not a core subject and was not taught every year in public schools. Because of this fact, Mr. Hamilton thought many young people were left behind. Mr. Hamilton said it was important to learn how to discuss civic matters at sensitive topics at a young age; otherwise, it would be more difficult to discuss these matters when people entered adulthood. Mr. Hamilton believed suggestions and ideas from the Civic Engagement Summit would be published soon. As soon as the material was released, Mr. Hamilton pledged to make it available on his emails and hoped it would be available on UD's website.

Mr. Hamilton said some schools in the Newark area had good practices in place. He referenced the Newark Charter High School's (NCHS) Project Citizen group. In the Project Citizen group, an entire class would research a problem for several months and would develop several solutions. At the end of the project, the students would propose a final solution. Mr. Hamilton thought the project concluded with a contest in Dover. According to Mr. Hamilton, one of the proposals from Project Citizen was implemented into law last year (2018). Mr. Hamilton expressed a group from Project Citizen currently worked with the City's Conservation Advisory Commission (CAC) in regard to banning plastic straws. He mentioned an article by the Newark Post provided details of this project. Mr. Hamilton thought Project Citizen was a beneficial program as it required students to identify a problem, research the issue thoroughly and come up with a solution and proposal to implement change. While students in the Project Citizen did not always agree, the discussion and dialogue remained civil. Mr. Hamilton thought education would assist future generations to work together, come up with solutions and improve public discourse. He encouraged those in the audience who had children to let them know it was okay to disagree and have conversations.

Ms. Wallace:

- Ms. Wallace asked Mr. Coleman if he planned to discuss Main Street on Monday, March 11, 2019. Mr. Coleman confirmed the topic of Main Street would be addressed on March 11. She wanted to present the idea for Council's discussion to put forward a task-force for Route 896 as was the case with Cleveland Avenue. Ms. Wallace thought there was significant room for improvement of Route 896 as she described it as a main corridor for the City and people entering Newark. With the additional development on STAR Campus, Ms. Wallace believed there would be a significant increase of pedestrians and bike traffic. Ms. Wallace was of the opinion a community effort – like they did with Cleveland Avenue – needed to be assembled to look at the section of the road. She thought the area could be beautified as well as improved for multi-modal transportation. Ms. Wallace wished to request the matter to be placed on a future agenda for discussion and suggestions from staff as to who should be appointed to the task force. She expressed her intention was for Council to vote on the taskforce after a formal discussion at a later time.

Mr. Morehead:

- Mr. Morehead believed it was necessary for Council to prioritize their statements in order to address important issues in a timely, concise matter. For this reason, he announced he pared down his list of comments in the essence of time. Mr. Morehead thought Ms. Bensley organized Freedom of Information Act (FOIA) training on January 31, 2019. According to Mr. Morehead, he attended the training as well as Ms. Bensley's entire staff. Mr. Morehead said the training was open to everyone and was excellent; specifically, Attorney Max Walton led the training. He announced the fact that he learned something new every time he attended FOIA training. Mr. Morehead believed the wording of the law had not changed; moreover, it was exactly the same since it was passed. However, Mr. Morehead stated the interpretation of the law changed. Mr. Morehead noted that since a new Attorney General was elected, this would change the interpretation of the law as various questions came up and would be decided. Additionally, Mr. Morehead believed various court cases effectively modified the law along the way. For this reason, he encouraged people to attend the next FOIA training since the law constantly changed.
- Mr. Morehead thanked the Public Works and Water Resources (PWWR) department for their excellent response to the snow storms that recently occurred in the area.
- Mr. Morehead announced he attended WILMAPCO's 2050 Plan meeting on February 22, 2019. He noted WILMAPCO was the organization required by the Federal Government to oversee transportation in both Cecil County, Maryland and in New Castle County (NCC), Delaware. He encouraged the audience to visit WILMAPCO's website and specifically search for the 2050 plan. Mr. Morehead stated a survey was provided on the website where people could provide comments and feedback on WILMAPCO's plan. Right now, Mr. Morehead emphasized the 2050 plan was in draft form and believed the policy clearly affected the way people lived. Mr. Morehead believed WILMAPCO's intent was to improve the roads to increase their overall safety. According to Mr. Morehead, improvement to the roads would allow people to be less frustrated and find greater enjoyment in their days. Mr. Morehead thought improvement to the roads would assist the economy and mitigate damage to the environment.

- Mr. Morehead mentioned the topic previously addressed about the crosswalk between the day care and proposed assisted living facility on Barksdale Road. If the proposed assisted living facility was built, Mr. Morehead thought the developer would pay for improvements to the crosswalk. Mr. Morehead stated the developer spoke about the possibility for residents of the assisted Living facility to use the crosswalk to volunteer at the nursery.
- Mr. Morehead referenced the Casho Mill Safe Routes to School effort that staff put together at Council's request. This information was available in the February 8, 2019 Administrative Weekly Report on the City's website. Mr. Morehead said this matter would come back to Council. He announced the proposal took the area of Casho Mill Road – between Barksdale Road and Church Street – and would make the area the extended focus of the Safe Streets to School area rather than the immediate area in front of Downes Elementary School itself.
- He echoed Mr. Hamilton's comment to the effect there were State roads throughout the City of Newark. Mr. Morehead believed Barksdale Road, Casho Mill, Route 273 and Church Road were roads owned and maintained by the State in District 1. Mr. Morehead said the potholes on those roads typically occurred in the same places. For this reason, Mr. Morehead announced they were working on a system to identify those places regardless of whether it was the City's or State's road and fix the potholes.

Mr. Clifton:

- Mr. Clifton thought brining the roads significantly helped travel in the most recent snow storms. He regretted to report an individual died in the Lumbrook Park area a couple weeks ago. Mr. Clifton said the area was insufficiently lit with limited space for people to bike or run. He announced an individual named Robert – who lived by Prices Corner – reached out to him as he was good friends with the deceased. Mr. Clifton announced Robert's initial request was to work with Races2Run in order to put on a 5k to raise money to put speedbumps in the area [by Lumbrook Park]. While speedbumps were not allowed on public roads in Newark, Mr. Patel and staff conducted a survey to put in more lights in the area. Additionally, Mr. Clifton said City staff looked into putting in a center median mid-way back between the stop sign and traffic light. Mr. Clifton expressed the efforts by staff would act as a traffic-calming device and would delineate bike lanes in the area. He looked forward to moving forward with these efforts and thanked Mr. Coleman and staff for working with Robert.
- Mr. Clifton asked Mr. Coleman to provide an update to Council at the meeting on March 11 regarding where the City stood in the emergency notification process.
- He attended the police graduation in Dover, Delaware, which brought the City two new police officers. Mr. Clifton said one officer was from Staten Island, New York, and the other officer hailed from the Dominican Republic. Mr. Clifton described them as outstanding people; moreover, one officer was male and the other was female. He welcomed the officers to the City of Newark.
- The Newark Police Department held a promotion ceremony at the Newark Senior Center on February 19, 2019. Mr. Clifton congratulated Corporal Darryl Saunders on his promotion to Master Corporal and Master Corporal Joseph Conover on his promotion to Sergeant.
- Mr. Clifton commended Jason Winterling from the PWW for his work with communities on various road and pothole issues. He described the community's reception to Mr. Winterling's assistance as tremendous.
- At 6:30 p.m. on March 21, 2019, Mr. Clifton announced he was holding an open house and public session at the Newark Senior Center to discuss the redevelopment at the Red Roof Inn location. Mr. Clifton said the discussion would center on the proposed redevelopment in that area to include a convenience store where the Red Roof Inn presently stands. While the developer wanted to move forward, Mr. Clifton wanted a public session prior to it moving forward. Mr. Clifton announced future information would be forthcoming as it was solidified.
- Mr. Clifton read in the Newark Post that one of the restaurants on Main Street had applied to the Alcoholic Beverage Commission (ABC) for a substantive change in the area utilized for entertainment. This supposedly would be accomplished by removing tables and chairs on the first floor and upper dining rooms for music and dancing; specifically, between the hours of 9:00 p.m. to 1:00 a.m. on Thursdays and St. Patrick's Day. Mr. Clifton questioned if this was permissible according to City Code regarding the amplified music and particularly dancing. He believed it was necessary for restaurants to maintain a certain number of tables and chairs. Mr. Bilodeau noted he needed to look into this matter as this was the first time it what brought to his attention.

Mr. Lawhorn:

- Mr. Lawhorn announced the Christina School Board was scheduled to have a meeting on February 26 at Gauger-Cobbs Middle School at 6:30 p.m. This meeting was a hot topic among his constituents in light of the upcoming referendum. Mr. Lawhorn thought Christina School District (CSD) was in the process of refining topics and issues for the referendum and believed it was in everyone's best interest to attend.
- He announced the Food Lion on New London Road would open on Wednesday, February 27, 2019. Mr. Lawhorn believed this was a welcome addition for residents in District 5 and throughout the City. The

ribbon-cutting ceremony was scheduled for Wednesday morning, February 27, 2019. Ms. Sierer informed the audience the ribbon-cutting ceremony was scheduled to begin at 7:45 a.m.

11. 2-C. CITY MANAGER:

1:29:20

Mr. Coleman announced Sergeant D’Elia was present and would be able to answer Mr. Clifton’s earlier questions regarding the liquor license. He summarized a restaurant on Main Street applied to the Alcoholic Beverage Commission in hopes to get their liquor license modified to allow them to remove tables and have amplified music and dancing. Mr. Coleman said he assumed Finn McCool’s was the restaurant and Ms. Sierer confirmed this was the case. Sgt. D’Elia informed the audience Finn McCool’s would have to apply through the City to go to the Fire Marshal; additionally, the restaurant would be required to through Code Enforcement in order to accomplish this. Additionally, Sgt. D’Elia said there would be an impact on Finn McCool’s Special Use Permit (SUP). Sgt. D’Elia announced the restaurant would also be required to go to the ABC and directly to the Commissioner’s office to request a variance. Mr. Clifton announced Finn McCool’s already went to the ABC and Commissioner to request a variance. Sgt. D’Elia asked Mr. Clifton if the variance was granted.

Mr. Clifton restated Finn McCool’s variance request was in the Newark Post and expressed Mr. Bilodeau had the notice for this matter. According to Mr. Clifton, he thought there were certain local hoops the restaurant needed to get through. Sgt. D’Elia believed the Fire Marshal and Code Enforcement would address this issue. Ms. Sierer asked if the Fire Marshal would contact the City before they approved the change. Sgt. D’Elia expressed this was not necessarily the case; moreover, Sgt. D’Elia said there were other variances requested by restaurants for St. Patrick’s Day (i.e. Deer Park) where the City was not notified before. Sgt. D’Elia announced he often would find out the variance was granted when he observed a crowd out front or barriers set up. He would be able to contact the Delaware Alcohol and Tobacco Enforcement (D.A.T.E.) agents in order to find out if the Commissioner offered a variance. Sgt. D’Elia clarified he would be able to reach out to D.A.T.E. to see if they already granted a variance for any of the things on St. Patrick’s Day. Mr. Clifton restated the request also mentioned Thursdays. Sgt. D’Elia expressed he was aware about Thursday evenings because Finn McCool’s previously received a citation from D.A.T.E. for a floor-plan violation. However, Sgt. D’Elia said he was unaware that Finn McCool’s applied for a permanent variance for Thursday nights.

Mr. Bilodeau announced the notice for this matter said those who objected to this matter had until March 10, 2019 to file them with the ABC Commissioner. There was discussion at the table regarding who would draft the letter. Ms. Sierer announced Mr. Bilodeau should draft the letter and reach out to Sgt. D’Elia for his input in the matter. Ms. Wallace thought it might be beneficial for the City to be proactive and reach out to the other businesses (i.e. Deer Park) to let them know what steps were required if they wished to request similar variances to Finn McCool’s; specifically, related to St. Patrick’s Day as it was a problematic day for the City. Sgt. D’Elia announced Code Enforcement, D.A.T.E. agents and himself would inform Main Street businesses and other businesses of the steps that were required for St. Patrick’s Day. He clarified this information would be provided four days before St. Patrick’s Day to ensure issues did not occur. Ms. Wallace asked Sgt. D’Elia if restaurants and event staff were contacted ahead of time. Sgt. D’Elia confirmed this was the case and expressed they met with restaurant managers. At the meeting with restaurant managers, Sgt. D’Elia informed the managers about problems that could occur (i.e. not getting a variance etc.). He clarified the meetings happened before every St. Patrick’s Day, before homecoming and sometimes before Cinco De Mayo.

Mr. Coleman announced there currently were multiple vacant positions in the City. He stated Mr. Brainard would be leaving the City in a few weeks. Therefore, a position would be open in the City Manager’s office. Additionally, the City currently was in the recruitment process for police officers.

Mr. Coleman announced DeIDOT was scheduled to host a public information session on the Main Street Construction Project on Monday, March 4 from 4:00 p.m. to 7:00 p.m. in Council Chambers. He stated the session would be an open house where people would be able to come and go as they pleased. Mr. Coleman said DeIDOT’s full design team, construction management team and the contractor would be at the meeting to answer questions. A second meeting with DeIDOT was scheduled for Tuesday, March 5 from 10:00 a.m. to 12:00 p.m. in Council Chambers. The meeting on March 5th would consist of DeIDOT’s explanation of their outreach methods which would be utilized throughout the Main Street project.

12. 2-E. PUBLIC COMMENT:

1:34:52

Anne Park, Principal of Downes Elementary School, announced the school was built in 1965. In 1972, Ms. Park said she attended the kindergarten class at Downes Elementary. Ms. Park expressed she was a former employee of the former Super Fresh [on New London Road] and was excited to see the new

Food Lion in the area. She announced her excitement to be the Principal of Downes Elementary School as she felt like she was coming home to where she belonged. Ms. Park wanted to provide an update on Downes Elementary. She provided a pamphlet with updates to Council at the dais. Ms. Park said she asked her staff what would be most important for Council to know. She thought it was interesting since staff did not mention anything about themselves to the effect of important information for Council. Ms. Park believed Downes Elementary School had the most passionate, dedicated staff. She emphasized the staff were in the parking lot early in the morning and were at school late at night. Ms. Park said staff worked with parents and formed a strong bond with the school's Parent Teacher Association (PTA). According to Ms. Park, the PTA was recognized as a School of Excellence PTA for their work and organization. Each year, the PTA held the Shark Pride Stride. This year, Ms. Park announced the PTA through the Shark Pride Stride raised \$27,000 for the school.

Ms. Park highlighted the fact that Downes Elementary was a multi-cultural school. She stated the school's community was diverse; specifically, more Arabic-speaking students and Spanish-speaking students attended the school. Ms. Park mentioned there was a robust Asian population at Downes Elementary School. She pointed out the school had a Chinese Immersion Program that they were very proud of. Downes Elementary School was in the sixth-year of the Chinese Immersion Program; moreover, Ms. Park said they would continue the program at Shue-Medill Middle School. In eighth-grade, the Chinese Immersion Program students at Shue-Medill would be able to travel to China. Additionally, Ms. Park emphasized the Chinese Immersion students were very strong academically. She explained Immersion Programs were not without bumps in the road; specifically, as students learned math in Chinese. However, Ms. Park was proud of the fact Downes Elementary School was strong academically. She expressed the State was invited to see the teachers in action on March 14.

Ms. Park informed the audience Downes Elementary School was very active as far as community service. Clothes drives, blanket drives, toiletries for the homeless and Shivering Sharks were some of the examples of community service efforts. The Shivering Sharks raised over \$2,000 in their Polar Bear Plunge; moreover, this event occurred yearly and grew each year. Ms. Park expressed Downes Elementary School collaborated with Healthy Foods for Healthy Kids. Downes Elementary School had a garden each year which involved all of the students. The second-grade students turned the soil while kindergarten and first-grade planted in the garden. Ms. Park said the third-grade students were responsible for watering the garden and the cafeteria staff cleaned and served the fresh vegetables to the students and staff. Ms. Park thanked the City for their efforts in the Safe Routes to School program. On March 6, 2019 at 9:00 a.m., Ms. Park invited everyone to attend the Spread the Word to End the Word assembly. This effort was to help eliminate the word "retarded" in the use of one's vocabulary and focus on the strengths of everyone.

Tracy Novack announced she was the new Principal for West Park Place Elementary School. She started at West Park Place Elementary School eight years ago as an academic dean. Ms. Novack said she had been the Assistant Principal at different schools within CSD. According to Ms. Novack, she told her former principal that West Park Place Elementary School was the only place she would apply for as principal. Ms. Novack said her staff told her they were excited since they were able to keep their name. The staff were extremely proud of their history as well as the connections made within the local community. Furthermore, Ms. Novack pointed out West Park Place Elementary School was one of the few schools left in CSD with their original name. Ms. Novack said West Park Place Elementary School made a lasting mark in the community as well as a landmark institution of learning in the City of Newark. She believed the school was truly one of a kind. Similar to Downes Elementary School, Ms. Novack noted West Park Place Elementary School had a very diverse, multi-cultural population. Over 16 countries were represented and over 19 languages were spoken in West Park Place Elementary School. Arabic-speaking students were second to English-speaking students, followed by Spanish and Chinese speaking students.

Ms. Novack said the school's Multicultural Night was rescheduled for Wednesday, February 27, 2019. She invited everyone to attend and thought it was one of the school's most highly attended functions. Families would celebrate their cultures, bring food samples and share what it was like in their home countries. Ms. Novack announced March was National Reading Month. For the month of March, different activities were scheduled for each week. One week would include a photo booth with Dr. Seuss props for students to get their pictures taken. The school's drama club was set to perform Dr. Seuss's Sneetches. A book fair with Clifford was scheduled as well as a reading challenge available to students. Ms. Novack expressed West Park Place Elementary School continued to be a high performing academic school; moreover, they just received Every Student Succeeds Act (ESSA) Distinguished School Award for the continual growth and performance in the Smarter Bounds Assessment. In the past, the school was announced as a National Blue-Ribbon School. For next year, Ms. Novack informed the audience the goal was to become a Leader In Me School; therefore, staff taught students how everyone could be a leader.

Taylor Green, Public Information Officer for CSD, provided an update for the month of February. In sports, Ms. Green reported all three high schools in CSD were headed to the basketball playoffs. Christiana Vikings would play Lake Forest on February 26, 2019 at 7:00 p.m. Newark High School would play A.I. DuPont on February 26, 2019; finally, the Glasgow Dragons would play the winner of the William Penn v. Delmar game on Thursday, March 28, 2019. Ms. Green said CSD's middle schools were playing in this year's middle school championship this evening [February 25th], which was a big deal. She encouraged everyone to cheer on CSD's athletes in person at a game or online. For those who missed CSD's productions of Mary Poppins or Cinderella earlier this month, Ms. Green encouraged the audience to join them for Shrek the Musical at Glasgow High School on Thursday, February 28, 2019 and Friday, March 1, 2019 at 7:30 p.m. An additional show was scheduled for 1:30 p.m. and 7:30 p.m. on Saturday, March 2, 2019. Tickets were only \$10 for adults, \$5 for students and children five and under were free.

Ms. Green thanked Mr. Clifton for attending Newark High School's (NHS) annual chili luncheon last week (February 21, 2019). She said there was an amazing turnout from parents, staff and community members. Ms. Green noted Senator Dave Sokola and Representative Kowalko attended the event as well. She advised the audience to look out for the University's College Readiness Scholars video, which featured 10 of CSD's high schoolers. These high schoolers were not only preparing for college, they were committing to a life-long educational journey. Ms. Green thanked the University for producing the video. The CSD's Young Artists won four gold keys, 10 silver keys and 12 honorable mentions in the Scholastic Art Awards. Ms. Green said the gold key winners were headed for national judging. She informed the audience the plan for reimagining CSD high schools was well underway. Through Federal Career and Technical Education (CTE) funding, the first phase of facility upgrades would include a digital media classroom at NHS, Health Science classrooms at Christiana High School (CHS) and business classrooms at Glasgow High School (GHS).

Ms. Green also was excited to announce CSD's application to the State had been approved. Due to the State's approval, seven new courses and pathways would be introduced next year. Business Information, Management, and Finance – along with the K-12 Teacher Academy – would be added to GHS. At NHS, Performing Arts would be expanded, and Digital Communications and Engineering would be added. Ms. Green said new pathways in Animal Science, Plant Science, Agricultural Power and Engineering, as well as Allied Health and Public/Community Health would be added. Finally, Ms. Green provided an update regarding the recently announced referendum. Ms. Green said CSD discussed the need for an operating referendum in the spring. At the CSD's Board Meeting on February 12, 2019, the school board determined the date for the referendum would be April 30, 2019. Ms. Green said conversations were ongoing regarding the amount of funding CSD would seek and she encouraged the public to learn more by joining CSD for a special meeting of the school board at Gauger-Cobbs Middle School on February 26, 2019 at 6:30 p.m. The audio from the February 12, 2019 board meeting was available online where the referendum was discussed in depth. Ms. Green welcomed questions and feedback from the public on the referendum. She advised the public to provide comments and questions at feedback@christinak12.de.us.

John Morgan, District 1, referenced "a somewhat heated discussion" at the Council meeting on January 14, 2019 regarding the relationship between the City and University. Dr. Morgan believed some of the discussion seemed to have arisen over the discussion of the so-called "head tax" or "municipal services fee" proportional to the number of University students. After researching previous Council meetings, Dr. Morgan found the issue of the head tax/municipal services fee had been discussed extensively in the past; specifically, at a City Council meeting on November 21, 2016. Dr. Morgan announced the Newark Post produced a subsequent report about this issue after the November 21, 2016 Council meeting. Dr. Morgan said it should not have been a surprise when the issue with an idea recently resurfaced. He thought the head tax/municipal services fee was not a good idea for several reasons. When the issue originally came up a few years ago, Dr. Morgan performed a few Google searches for the phrase "municipal services fee"; moreover, he found only one other community – in Stevens Point, Wisconsin at the University of Wisconsin – which had such a fee imposed on universities. Dr. Morgan said the municipal services fee at the Stevens Point institution was \$11 per student per year. Using Stevens' Point municipal services fee as an estimate, Dr. Morgan thought the City of Newark would receive about \$220,000 per year (multiplying \$11 by roughly 20,000 students). Dr. Morgan thought the \$220,000 was roughly close to what the University already contributed to the City.

He also believed a municipal services fee would adversely affect well-behaved students, including those who did not even live in the City of Newark (i.e. commuting students who paid to park in the City lots if they did not buy a parking sticker from the University). According to Dr. Morgan, the right way to address the issues regarding extra police time required for controlling "rowdy behavior" was to increase the fines for rowdy behavior. Dr. Morgan researched statistics from several years ago about arrests of people for disorderly conduct, underage consumption and open containers. He thought approximately

2/3 of the arrests made for these aforementioned incidents were of University students. Dr. Morgan believed a significant amount of people arrested were not University students. He thought the City needed to be even-handed in the enforcement of this matters.

Nick Wasileski, District 3, followed up on Representative Kowalko's comments earlier in the evening. In the past, Mr. Wasileski said he had spoken to City Council about last summer's referendum. Specifically, his concern was the violation of the "one person, one vote" principle by single beneficial owners of multiple properties through legal business entities, specifically, LLCs. As Mr. Wasileski recalled, he thought Council unanimously agreed that changes to Newark's Charter were necessary and that Council must take action. Mr. Wasileski thought canvassing constituents in the City would reveal most Newark residents were opposed to multiple votes by a single owner of properties; specifically, whether properties were owned by legal entities [like LLCs] or by non-resident property owners. Mr. Wasileski said he had not spoken to one resident who agreed with multiple voting rights. In addition to legal entity voting in municipal elections and referenda – which he thought incidentally was permitted in only a few states – Mr. Wasileski said political action committees (PACs), lobbyists and special interests could influence legislation and voters alike. He thought a Constitutional issue might be at stake; specifically, equal protection under the law as defined in the 14th Amendment of the U.S. Constitution. He thought multiple votes by a single beneficial owner of multiple properties had the potential to dilute the single vote cast by a qualified resident voter.

Mr. Wasileski thought multiple votes abused the election process; furthermore, he believed multiple voting rights might be as egregious as the poll tax, which discouraged low-income residents from voting. According to Mr. Wasileski, the Supreme Court ruled in 1966 that a poll tax violated the U.S. Constitution. He thought Newark's referendum experienced a polar opposite: that is, the affluent could choose to vote multiple times by owning multiple properties. Mr. Wasileski believed Newark needed to rally leadership to amend its City Charter, as concurrent with any additional amendments to the Delaware Code (i.e. Title 22, Chapter 8, Home Rule Provisions). He stated amendments to the Delaware Code were common. Mr. Wasileski said a legislative debate may lead to the greater good; specifically, the public's questioning of entity voting rights permitted by Delaware Law. Mr. Wasileski believed Council would find overwhelming support to amend the Delaware Code and Newark's City Charter. Additionally, he thought there would be support to take necessary actions to address the "one-person, one-vote" principle and entity voting rights or concerns.

Ms. Wallace expressed she and Mr. Wasileski communicated about this issue before. She assured him the issue was coming back and that Council would discuss it. Ms. Wallace wished to clarify the issue was related to referendum voting only; therefore, it would not impact the upcoming City-wide election. She stated the decision on LLC's voting rights would need to be changed before Council decided to have another referendum.

Amy Roe, District 4, wanted to affirm everything that Mr. Wasileski [her father] said in regard to the LLC voting issue. Dr. Roe wished progress would have been made on this issue as the legislative calendar was ticking; additionally, there were not many days left of session. Dr. Roe stated time was of the essence. While she believed delays on the issue seemed likely [since they already occurred], Dr. Roe wanted Council to publicly commit to not holding another referendum in the City. She opposed a referendum until the principles of one-person, one-vote were guaranteed to Newark's residents. Dr. Roe also was concerned because she thought the City had not enforced the legality of certain affidavits that were signed by LLCs; specifically, the affidavits stated the LLCs were in good standing when they were not in good standing. Dr. Roe said falsifying information on a vote in a referendum was a very serious offense. She believed the City ignored this offense and wanted it to be given consideration.

Dr. Roe also was very concerned since Ms. Mullennix was not allowed to give her public comment on the Unruly Gathering Ordinance [that evening]. Although there was no public hearing on the Unruly Gathering Ordinance tonight, Dr. Roe expressed public comment was for the public to decide what they would comment on. Dr. Roe stated Ms. Mullennix had First Amendment Rights to free speech which she believed were infringed upon this evening. Dr. Roe was greatly upset by this and believed public comment should not be censored, even though a public hearing was scheduled for a specific topic at the next Council meeting. On the issue of public comment, Dr. Roe stated the April Organizational meeting would be coming up soon. She wished to address the issue of how members of the public got three minutes to speak. Dr. Roe believed this was a limitation and expressed the public used to be permitted to speak for five minutes. She said Council implemented the three-minute public comment in 2013; therefore, the public had been limited to three minutes of [public] comment for six years. Dr. Roe referenced the meeting agenda for the evening and pointed out the University administration and Student Body Representative were able to speak for five minutes whereas others were only permitted to speak for three minutes. Dr. Roe expressed displeasure since she, a citizen of the City (a voter, property owner, utility

customer and tax-payer) was only allowed to speak for three minutes. Dr. Roe believed this limitation violated the 14th Amendment to the U.S. Constitution as she thought it discriminated against her as a class of a person. This concerned Dr. Roe greatly; additionally, she hoped Council would update the agenda to improve the microscopic font which was hard for her and others who were visually impaired [as she was] to read. Dr. Roe also had an issue with the volume of the timer in Council Chambers as she believed it exceeded 80 decibels and was much too loud for people who spoke at the podium.

Catherine Ciferni, District 2, had a few questions based on some of the things she heard at the meeting. She questioned whether the change requested by Finn McCool's for St. Patrick's Day would affect the sale of food. Ms. Ciferni thought there was a proportional amount of food required to be sold that was comparable to the amount of alcohol. Ms. Ciferni also thought this would be an issue as she said it would be difficult to consume food if there were no tables or chairs in a restaurant. Mr. Bilodeau told Ms. Ciferni he would look into this issue. Ms. Ciferni was pretty sure people would line up outside Finn McCool's on the public sidewalk, when the sidewalks were already too narrow in many places. She expressed this made it difficult or impossible to navigate; moreover, she announced it would be hard for members of the disability community to get around or navigate the sidewalks. Ms. Ciferni wanted to ensure the sidewalk was equally clear. Between 108 Main Street and Finn McCool's – in the alley where the entrance to the English Language Institute (ELI) was – Ms. Ciferni thought it was typical for Finn McCool's to put a porta-potty in that alley way. Ms. Ciferni questioned the legality of this issue and thought the porta-potty stayed in the alley way beyond St. Patrick's Day. She emphasized the alley way was an entry way to a University program; therefore, the porta-potty hindered access to this program.

Ms. Ciferni said she went to speak at a University student political group last week (week of February 18, 2019). One of the questions she was asked at the meeting was in fact about the inequity of voting during the referendum process. Ms. Ciferni thought this particular group did not view the City positively; therefore, she believed it needed to be taken into account. She expressed the students were aware of the voting issues and did not like it as well. Ms. Ciferni said she was aware the University hoped to build a link to University activities on the City's website. She hoped some of the public school activities – particularly the CSD's high schools – would be able to be listed on the City's website.

There were no further comments from the public.

13. 3. APPROVAL OF CONSENT AGENDA:

- A.** Approval of Council Minutes – January 28, 2019
- B.** Receipt of Planning Commission Minutes – January 2, 2019
- C.** Receipt of Green Building Code Work Group Minutes – November 27, 2018
- D.** Receipt of Green Building Code Work Group Minutes – December 18, 2018
- E.** Receipt of Alderman's Report – February 7, 2019
- F.** Approval of Polling Places for the April 9, 2019 City Election
- G.** ***First Reading*** – **Bill 19-03** – An Ordinance Amending Chapter 2, Administration, Chapter 27, Subdivisions, and Chapter 32, Zoning, Code of the City of Newark, Delaware, By Amending Management Positions, Titles and Pay Grades Related to Communications and Human Resources – ***Second Reading*** – **March 11, 2019**
- H.** ***First Reading*** – **Bill 19-04** – An Ordinance Amending Chapter 20, Motor Vehicles, Code of the City of Newark, Delaware, By Permitting Right Turn on Red Traffic Signal from East Cleveland Avenue to Capital Trail and Removing References to the Chrysler Facility – ***Second Reading*** – **March 11, 2019**
- I.** ***First Reading*** – **Bill 19-05** – An Ordinance Amending Chapter 22, Police Offenses, Code of the City of Newark, Delaware, By Creating a Civil Violation for Unruly Social Gatherings – ***Second Reading*** – **March 11, 2019**
- J.** ***First Reading*** – **Bill 19-06** – An Ordinance Amending Chapter 31, Weapons, Code of the City of Newark, Delaware, By Amending Code Sections Regarding Switchblades to Comply with Delaware Code – ***Second Reading*** – **March 11, 2019**
- K.** ***First Reading*** – **Bill 19-07** – An Ordinance Amending the Comprehensive Development Plan By Changing the Designation of Property at 924 Barksdale Road – ***Second Reading*** – **March 11, 2019**
- L.** ***First Reading*** – **Bill 19-08** – An Ordinance Amending the Zoning Map of the City of Newark, Delaware, By Rezoning from BL (Business Limited) to AC (Adult Community) 6.95 Acres Located at 924 Barksdale Road – ***Second Reading*** – **March 11, 2019**
- M.** ***First Reading*** – **Bill 19-09** – An Ordinance Amending the Comprehensive Development Plan By Changing the Designation of Property Located at 100, 115, 121 College Square – ***Second Reading*** – **March 11, 2019**

1:58:52

Ms. Bensley read the consent agenda into the record.

MOTION BY MR. CLIFTON, SECONDED BY MS. WALLACE: TO APPROVE THE CONSENT AGENDA AS PRESENTED.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Lawhorn, Hamilton, Morehead, Sierer, Wallace.

Nay – 0.

Absent – Markham.

14. 4. ITEMS NOT FINISHED AT PREVIOUS MEETING: None.

15. 5. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS:

- A.** Appointment of Nikki Lane to the Newark Housing Authority Position on the Community Development/Revenue Sharing Advisory Committee for a Three-Year Term to Expire March 15, 2022

2:01:18

Ms. Sierer brought Ms. Lane forward to ask Council to approve her appointment to a three-year term on the Community Development/Revenue Sharing Advisory Committee as the Newark Housing Authority Representative. She noted Ms. Lane also was reappointed to the Newark Housing Authority on January 14, 2019.

There were no questions from Council or the public.

MOTION BY MS. SIERER, SECONDED BY MS. WALLACE: TO APPOINT NIKKI LANE TO THE NEWARK HOUSING AUTHORITY POSITION ON THE COMMUNITY DEVELOPMENT/REVENUE SHARING ADVISORY COMMITTEE FOR A THREE-YEAR TERM TO EXPIRE MARCH 15, 2022.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Lawhorn, Hamilton, Morehead, Sierer, Wallace.

Nay – 0.

Absent – Markham.

Ms. Sierer thanked Ms. Lane for attending the Council meeting and for her service to the City.

16. 5-B. APPOINTMENT OF MARCIA HALIO TO AN AT-LARGE POSITION ON THE COMMUNITY DEVELOPMENT/REVENUE SHARING ADVISORY COMMITTEE FOR A THREE-YEAR TERM TO EXPIRE MARCH 15, 2022

2:02:41

Ms. Sierer brought forward Marcia Halio for appointment to an at-large position on the Community Development/Revenue Sharing Advisory Board for a three-year term. She announced Ms. Halio currently resided in District 4 and had been a resident of the City for over 30 years. Ms. Sierer said Ms. Halio's experience qualified her to serve on this committee.

There were no questions or comments from Council or the public.

MOTION BY MS. SIERER, SECONDED BY MR. CLIFTON: TO APPOINT MARCIA HALIO TO AN AT-LARGE POSITION ON THE COMMUNITY DEVELOPMENT/REVENUE SHARING ADVISORY COMMITTEE FOR A THREE-YEAR TERM TO EXPIRE MARCH 15, 2022.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Lawhorn, Hamilton, Morehead, Sierer, Wallace.

Nay – 0.

Absent – Markham.

Ms. Sierer thanked Ms. Halio for attending the Council meeting and for her service to the City.

17. 5-C. APPOINTMENT OF KATHERINE SHEEDY TO AN AT-LARGE POSITION ON THE CONSERVATION ADVISORY COMMISSION FOR A THREE-YEAR TERM TO EXPIRE MARCH 15, 2022

2:43:44

Ms. Sierer noted Ms. Sheedy was unable to attend the Council meeting this evening due to a family emergency. She stated Ms. Sheedy was a reappointment to the Conservation Advisory Commission.

There were no questions or comments from Council or the public.

MOTION BY MS. SIERER, SECONDED BY MS. WALLACE: TO REAPPOINT KASS SHEEDY TO AN AT-LARGE POSITION ON THE CONSERVATION ADVISORY COMMISSION FOR A THREE-YEAR TERM TO EXPIRE MARCH 15, 2022.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Lawhorn, Hamilton, Morehead, Sierer, Wallace.

Nay – 0.

Absent – Markham.

18. 5-D. APPOINTMENT OF MARY KAY FERRERO TO THE DISTRICT 1 POSITION ON THE COMMUNITY DEVELOPMENT/ REVENUE SHARING ADVISORY BOARD FOR A THREE-YEAR TERM TO EXPIRE ON MARCH 15, 2022

2:04:32

Mr. Morehead said it was his pleasure to nominate Ms. Ferrero for the District 1 position for the Community Development/Revenue Sharing Advisory Committee for a three-year term. He announced Ms. Ferrero was detail oriented and stated every fact about her was on her resume. Mr. Morehead announced Ms. Ferrero was a life-long resident of the City. He stated Jack and Gertrude Smith, who helped with the City's elections for many years – were Ms. Ferrero's parents. Mr. Morehead said Ms. Ferrero had been a teacher and was part of the fabric of Newark's community. He stated Ms. Ferrero currently volunteered at the Newark Senior Center and believed she would make an excellent addition to the board.

There were no questions or comments from the table or public.

MOTION BY MR. MOREHEAD, SECONDED BY MS. WALLACE: TO APPOINT MARY KAY FERRERO TO THE DISTRICT 1 POSITION ON THE COMMUNITY DEVELOPMENT/REVENUE SHARING ADVISORY BOARD FOR A THREE-YEAR TERM TO EXPIRE ON MARCH 15, 2022.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Lawhorn, Hamilton, Morehead, Sierer, Wallace.

Nay – 0.

Absent – Markham.

Ms. Sierer thanked Ms. Ferrero for serving the City of Newark.

19. 6. SPECIAL DEPARTMENT REPORTS

A. General Assembly Update and Associated Requests for Council Direction – Lobbyist

2:06:09

Rick Armitage, Lobbyist, expressed it had been a quiet week in Dover. The Legislature was in recess and the Joint Finance Committee (JFC) finished their hearings last week. Only one of the JFC's hearings was snowed out and rescheduled for another time. Mr. Armitage said the Legislature would return next Tuesday and would work nine days in March. The Legislature would take another week off for the Bond Committee's hearings. Mr. Armitage said the vast majority of funds that passed forward to Newark were appropriated in the Bond Committee. He requested permission from Council to join the League and other municipalities to ask for an increase in the Municipal Street Aid (MSA) funding. While he did not think Council would disagree, he thought it made sense to ask Council for direction.

Ms. Sierer asked if any members of Council were opposed to seeking additional MSA. There were no objections from Council to Mr. Armitage seeking additional MSA.

Mr. Armitage said the Delaware Economic and Financial Advisory Council (DEFAC) would meet on March 18, 2019. Staff recommended the minimum wage bill to be added to the table; furthermore, Mr. Armitage did not believe there would be any major objections in this matter. He thought the minimum wage bill would not have a huge impact if the two portions (the training wage and the less than 18 wage) were added to the fiscal impact in the budget. Mr. Armitage believed the financial budget should be monitored regardless of the anticipated effect.

He announced Senator Harris McDowell was likely to re-introduce a bill that was introduced late last year (June 2018) around net metering. Mr. Armitage said there were at least three pages of comments from the Delaware Municipal Electric Corporation (DEMEC). He believed what Senator McDowell was being encouraged to do – which he thought Senator McDowell promised to do – was to put together a task-force to be able to get input from all the municipalities and their providers. Mr. Armitage thought he should lobby Senator McDowell to have someone appointed from Newark [in addition to someone from DEMEC, from the Electric Cooperative, Delmarva Power and others].

Mr. Coleman said DEMEC spent a lot of time on the bill that Mr. Armitage referred to. At DEMEC's last board meeting, Mr. Coleman asked Kimberly Schlichting, DEMEC's VP of Administration, to put together a document that summarized the bill and its impact to Newark. Mr. Coleman reviewed the document from Ms. Schlichting and did not believe the bill [in its current written form] would have much of an impact on Newark. According to Mr. Coleman, he thought the bill focused mostly around community solar projects. Mr. Coleman's main concern with the bill was in reference to the definition of a community solar project. As the bill defined a community solar project, Mr. Coleman said it was basically referred to a solar project with more than one partner in the community. For this reason, community solar projects would fall in a completely different bucket on net metering rules as proposed to be changed under the new bill. Instead of the limit being 25 kilowatts per person, Mr. Coleman announced the bill would alter the limit to 5 megawatts per person. Mr. Coleman said there were obvious concerns with the bill that were related to the language as currently written. He hoped to have an update for Council after he attended DEMEC's next meeting. Mr. Coleman expressed concerns regarding existing language that would remain in the bill about net metering; specifically, how it was handled. He hoped to have a conversation regarding these concerns and thought Senator McDowell seemed open to having the conversation.

Ms. Sierer opened the discussion to the table.

Ms. Wallace wanted to provide feedback on the minimum wage. She was okay with putting the minimum wage on the table to monitor it; however, she thought the matter needed to come back to Council for further discussion before moving forward with a position. Mr. Armitage asked Ms. Wallace and Council if the format of his report was helpful. Council members confirmed the report's format was helpful. Mr. Armitage expressed timing would always be an issue with the report; specifically, it was hard for him to provide things far enough in advance onto the agenda. Ms. Wallace thought Mr. Armitage's report was fine and expressed the more Council knew the better. She believed advanced notice to Council allowed them to make more informed decisions rather than receiving information only at the podium. Mr. Armitage understood Ms. Wallace's concerns; however, he announced things would be much busier by the time June arrived.

Mr. Hamilton asked for the last date of the current session. Mr. Armitage believed Sunday, June 30, 2019 was the last day for the session. He expressed the Senate announced they would not work through the early morning hours. Mr. Armitage said it was harder for Senators to make good decisions in the early morning hours when they were exhausted. While he was unsure if the House would follow along with the Senate's reasoning, Mr. Armitage said it was typically the case for the House to work into the early hours of the morning. Mr. Hamilton asked Mr. Coleman if Council would be able to make recommendations regarding the LLC voting rights prior to the City-wide election. Mr. Coleman believed the Council meeting on January 28, 2019 determined that staff needed to conduct additional research on exact language regarding LLCs. He believed staff was still in the process of gathering additional research for Council; moreover, Mr. Coleman thought Rehoboth Beach's language provided staff with a clear path forward. According to Mr. Coleman, staff received information from Representative Baumbach by the Council meeting on January 28, 2019. At this point, Mr. Coleman said staff needed to find time to work on this issue. Mr. Coleman stated this matter was not overly pressing since it only would be relevant when another referendum election would be scheduled. Since a referendum election was not on Council's horizon in the near future, Mr. Coleman expressed there was time for staff to review this matter.

Mr. Coleman thought the Council meeting on March 25, 2019 was already packed; furthermore, he thought it would only be possible to discuss the language at the Council meeting on March 11, 2019. If this was the case, Mr. Coleman announced a resolution in this matter needed to be done by Friday, March 1, 2019. He believed it would be a challenging for a resolution to be drafted by March 1, 2019 at this point. Ms. Wallace believed the majority of Council favored making changes to the LLC language for voting rights at the meeting on January 28, 2019. According to Ms. Wallace, she believed the next step was to address the language for the resolution. Mr. Coleman confirmed this was the case. Since Council favored the change, Ms. Wallace thought Council would be able to advise Representatives Kowalko and Baumbach to move forward. Ms. Wallace clarified she brought up the issue because she believed Council wanted to include other Charter changes. She asked staff if they thought directing Mr. Armitage to start lobbying for the LLC issue would impact the other Charter changes as proposed by Council. Realistically, Mr. Coleman

stated the matter would largely fall on Mr. Bilodeau and Ms. Bensley's shoulders as far as drafting the resolution itself [and its specific language]. For these reasons, Mr. Coleman thought Council should defer to Mr. Bilodeau and Ms. Bensley as to whether they believed it was feasible at this point.

Ms. Bensley said she discussed the issue of the LLC language late last week (week of February 18, 2019) with Mr. Coleman in order to determine where they were in the process. At this meeting, it was determined, instead of taking the entire Charter Change discussion and every single point they talked about and bringing it all back at once, to start by moving forward with the language Council already approved and moving forward. Specifically related to the Charter Change discussion, Ms. Bensley expressed language from Rehoboth would be brought forward since it seemed to go through the General Assembly in a fairly smooth manner. Ms. Bensley believed Council had not expressed interest in the language of the entire bill; however, they were most interested in the language around one-person and one-vote and the delineation thereof. She expressed the plan was for Council to discuss this specific language on the agenda for the March 11, 2019 Council meeting. Based on Council's discussion at the March 11, 2019 meeting, Ms. Bensley expressed they would determine a path forward. Mr. Hamilton asked if Council was able to get some things done on this matter. Ms. Wallace thought Council would be able to move forward since they had the discussion on January 28, 2019 and believed there was consensus from staff. When Council provided direction to a lobbyist, Ms. Wallace stated they generally did not take votes since it was a discussion. In order to make this happen for March 11, 2019, Ms. Bensley clarified direction needed to be provided as to whether Council wanted staff to move forward with a formal resolution with that language in it at the next meeting. Conversely, Ms. Bensley expressed direction was needed regarding whether Council wanted to discuss the LLC language first.

Ms. Sierer said time would be needed for public comment on this matter and questioned whether it had been advertised on an agenda. Ms. Bensley noted there was a special meeting on the proposed Charter changes on October 4, 2018 and public comment was permitted at that time. However, Ms. Bensley clarified they had not discussed the topic since the language from Rehoboth was brought to their attention. Mr. Coleman stated resolutions did not have First or Second Readings; therefore, there would not be a substantial change issue if it was brought forward and changes were made on the floor. He said staff could bring a draft of the resolution to Council where it could be finalized with everyone present. There was discussion at the table regarding whether the item could be discussed at the March 11, 2019 Council meeting. Ms. Bensley expressed she and Mr. Bilodeau would be required to circulate a draft of the resolution to staff by Thursday, February 28, 2019. Mr. Bilodeau assured the table the resolution would be done. Mr. Lawhorn asked for clarification on the path forward. Ms. Bensley said the path forward was to have two separate resolutions on the next Council meeting agenda [March 11, 2019]: (1) regarding the Charter changes that were previously agreed on at the October 4, 2018 meeting and (2) to have a resolution specifically around LLC voting changes in the Charter [for Council to discuss and vote on separately at that same meeting].

Mr. Lawhorn thought it was necessary for Council to discuss the wording and language of the proposed changes to ensure it was done correctly. Ms. Bensley said the difference between where Council was now – versus where they were at the October 4, 2018 meeting – was due to the fact there was a successful example (i.e. with Rehoboth) that had gone through State legislature. According to Ms. Bensley, both she and Mr. Coleman looked to bring forward the Rehoboth example for Council as a discussion item; specifically, they believed it addressed many of the points Council looked for. Therefore, Ms. Bensley stated Council could expect a resolution to be framed around Rehoboth's language. Mr. Hamilton appreciated the discussion and wanted to ensure Council would be able to provide direction to staff. Mr. Lawhorn agreed with Mr. Clifton; however, he thought Council discussed many items for a while and struggled to get things done. Mr. Lawhorn said Council's reprioritization of things on the spot appeared to give staff new #1 priorities at each meeting. He believed this method contributed to Council not accomplishing items or getting things done. Mr. Lawhorn thought it was not the best idea to cram things in before an election; however, for high priority issues – and staff felt they had the answers to Council's questions – he supported moving forward. Ms. Bensley expressed a piece-meal approach – addressing the LLC issue first – seemed more appropriate as opposed to placing everything on hold until the entire Charter change discussion was addressed.

Ms. Sierer said she was uncomfortable with the conversation at the dais of doing anything before the election. She did not believe these discussions should occur at the dais. Additionally, Ms. Sierer thought it was not appropriate for individual Council members to bring items forward on anything prior to the election because the body might change. Mr. Hamilton thought this had been done in the past; therefore, he did not see why it could not be brought forward now. Mr. Lawhorn asked Mr. Hamilton to clarify his statement. Mr. Hamilton said Council had discussed getting things done as a body; furthermore, since the body might change, it was unknown as to what the future votes would be. Mr. Lawhorn interjected and said this was the process of democracy. Mr. Hamilton thought the issue being discussed

related to verbiage changes; therefore, he wanted to move forward. Ms. Wallace wished to move forward with the Lobbyist report as she believed there was a clear path forward.

Mr. Morehead thanked Mr. Armitage for the format of his report and understood his concerns related to timing. Mr. Armitage said he was okay to send Council the materials and report on Thursdays or Fridays prior to Council meetings on Monday; additionally, he believed it would provide Council with sufficient lead time. Mr. Armitage referenced discussion earlier in the meeting about potholes. He mentioned DelDOT had a transportation center and expressed they could contact DelDOT by dialing #77. Mr. Armitage believed he contacted DelDOT at #77 at least once every month to talk about debris on Route 1. He described the DelDOT employees who answered the phones as personable. Ms. Sierer agreed with Mr. Armitage and thought it would be beneficial to post DelDOT's transportation center information and #77 on the City's website.

Ms. Sierer opened discussion to the public.

John Morgan, District 1, believed there was an important issue with the LLCs. This issue was brought to his attention by Dr. Roe last summer. Dr. Morgan asked Mr. Bilodeau to bring up the relevant section of the State code on the procedure for amending the voting rights of a municipality with a Home Rule. Mr. Bilodeau announced Dr. Roe provided a statute during a discussion last summer; however, the section of the Code Dr. Roe brought up had to do with the Home Rule. However, Mr. Bilodeau clarified the statute Dr. Roe brought up did not apply to when the State legislature changes the Charter. Dr. Morgan read the section of the State code which he thought referred to the whole section [of the State Code]. He firmly believed the section of the code could not be used to take away the voting rights of any individual. While Dr. Morgan thought LLC voting was absurd, he believed the right solution was the one presented earlier in the evening by Mr. Wasileski. According to Dr. Morgan, Mr. Wasileski said LLCs were not corporations; moreover, they were defined in separate titles of the State code. Dr. Morgan questioned how Rehoboth was able to make changes to the LLCs voting rights and sent an email to Speaker Schwartzkopf. He stated Speaker Schwartzkopf forwarded his email to a Legislative attorney. A few days later, Dr. Morgan said the Legislative Attorney responded to him and stated the crucial distinction was that the City of Newark had filed its Home Rule Charter with the State [prior to a certain date in 1963]. For this reason, Dr. Morgan announced the Legislative Attorney said Newark's Charter was subject to the State code [and Rehoboth was not]. Dr. Morgan said he would be happy to forward his email correspondence with the Legislative Attorney to Mr. Bilodeau and Council. He believed Council should take his statements and correspondence into consideration prior to moving forward; specifically, he thought it was possible the City might inadvertently ask the Legislature to do something they were not able to do [without revising Delaware Law]. Dr. Morgan thought the neatest solution for the LLC issue was to ask the City Solicitor to reconsider his opinion that LLCs should be considered corporations. He believed LLCs were defined in different titles of the State code. Dr. Morgan thought a good argument could be made to the effect LLCs should not have voting rights in the City of Newark in referenda.

There was no further public comment.

20. 7. RECOMMENDATIONS FOR CONTRACTS & BIDS:

- A.** Recommendation to Waive the Bid Process in Accordance with the Code of the City of Newark for the Purchase of a Pair of Redundant SonicWALL Firewalls.

2:28:46

Mr. Brainard announced item 7-A was a recommendation to waive the bid process for the purchase of a pair of redundant SonicWALL Firewalls that were outlined in the approved 2019-2023 Capital Improvement Program (CIP). He informed the audience Mr. Del Grande was in attendance and would be able to assist with answering questions.

There was no Council or public comment.

MOTION BY MS. WALLACE, SECONDED BY MR. LAWHORN: TO WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK FOR THE PURCHASE OF A PAIR OF REDUNDANT SONICWALL FIREWALLS IN THE AMOUNT OF \$58,000 AS APPROVED IN THE CITY'S 2019-2023 CAPITAL IMPROVEMENT PROGRAM.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Lawhorn, Hamilton, Morehead, Sierer, Wallace.

Nay – 0.

Absent – Markham.

21. 7-B. RECOMMENDATION TO AWARD CONTRACT 19-01 – FURNISHING LABOR AND EQUIPMENT FOR TREE PRUNING, REMOVAL AND CREEK CLEARANCE OPERATIONS

2:29:56

Mr. Brainard announced item 7-B was in reference to the recommendation for contract number 19-01 for tree-pruning removal and creek clearance options. He stated the vendor was Miller's Tree Service and had been doing this type of work for the past couple of years now. Mr. Brainard said Miller's Tree Service went through the bidding process; therefore, staff recommended the City to stick with Miller's Tree Service.

Ms. Sierer opened discussion to the table.

Ms. Wallace asked if this matter was different from the tree service for the electrical wires and Mr. Brainard confirmed this was the case.

Mr. Morehead asked Mr. Brainard why the contract was requested to last for three years. Mr. Brainard said the previous contract was for three years as well; moreover, he believed the past had determined it was easier to deal with one vendor for the Parks and Recreation Department. He expressed the previous contract was awarded within 2016 (Contract No. 16-13) and was continued by the Parks and Recreation Department. Mr. Morehead thought this matter was not a huge concern; however, he remembered a time when IT requested contracts for a much longer term and experienced some pushback.

Mr. Hamilton mentioned the contract said the normal hourly rate was \$50 and questioned how many hours were considered premium. In the past three-years, Mr. Brainard said there was one instance in a four-hour period; specifically, where a tree fell on wire which required a premium hourly workforce.

There was no public comment.

MOTION BY MR. LAWHORN, SECONDED BY MR. CLIFTON: TO AWARD CONTRACT 19-01 – FURNISHING LABOR AND EQUIPMENT FOR TREE PRUNING, REMOVAL AND CREEK CLEARANCE OPERATIONS TO MILLER'S TREE SERVICE AT THE COST OF \$50 PER NORMAL LABOR HOUR AND \$100 PER PREMIUM LABOR HOUR.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Lawhorn, Hamilton, Morehead, Sierer, Wallace.

Nay – 0.

Absent – Markham.

22. 7-C. RECOMMENDATION TO AWARD CONTRACT 19-02 – PURCHASE OF ONE CURRENT MODEL YEAR 25 PASSENGER COMMERCIAL BUS 2 WHEELCHAIR POSITIONS 2 FOLD-AWAY SEATS

2:32:43

Mr. Brainard said Contract 19-02 was the purchase of a new bus to replace the existing bus 1304.

Ms. Sierer opened discussion to the table.

Mr. Morehead said he had a constituent ask if the City considered the use of alternative-fuel vehicles, especially considering how much the current machine idled. He questioned if anyone had ever been cited for the Anti-Idling law in Newark. Dave Vispi, Senior Mechanic, said alternative fuels were researched; however, there was not a fueling infrastructure as of yet. Mr. Vispi informed the audience he attended a few conferences. While there had been brief conversations about getting a fueling infrastructure between the University, CSD and the City, Mr. Vispi clarified the discussion was in the preliminary stages. Mr. Vispi announced the City was not ready to support an alternative fuel-vehicle for this bus; moreover, the option of natural gas also was being researched. According to Mr. Vispi, the difference was that slow-fill station natural gas was relatively inexpensive; moreover, it might work for something that would not need to be called upon overnight. Mr. Vispi said fast fill stations were multi-million-dollar stations verses cheaper options. While the staff was in the process of looking for alternative options, Mr. Vispi expressed it would not occur for the bus in question; however, it was a long-term goal.

Mr. Hamilton questioned if it would be beneficial to lobby in order to increase the City's transportation funds for a fuel station.

There was no public comment.

MOTION BY MR. MOREHEAD, SECONDED BY MR. CLIFTON: TO AWARD CONTRACT 19-02 – PURCHASE OF ONE CURRENT MODEL YEAR 25 PASSENGER COMMERCIAL BUS, 2 WHEELCHAIR POSITIONS AND 2 FOLDAWAY SEATS TO WOLFINGTON BODY COMPANY INC. OF EXTON, PENNSYLVANIA FOR THE TOTAL COST OF \$120,020.80.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Lawhorn, Hamilton, Morehead, Sierer, Wallace.

Nay – 0.

Absent – Markham.

Mr. Clifton announced this item was Mr. Brainard’s last bid and he would not be present at the next Council meeting on March 11, 2019. Mr. Brainard confirmed this was the case.

23. 8. **FINANCIAL STATEMENT:** None.

24. 9. **ORDINANCES FOR SECOND READING & PUBLIC HEARING:**

A. **Bill 19-02** – An Ordinance Amending Chapter 2, Administration, Chapter 27, Subdivisions, and Chapter 32, Zoning, Code of the City of Newark, Delaware, By Sunsetting the Downtown Newark Partnership and Forming the Design Committee

2:36:17

Ms. Bensley read Bill 19-02 into the record.

MOTION BY MR. MOREHEAD, SECONDED BY MR. CLIFTON: THAT THIS BE THE PUBLIC HEARING AND SECOND READING FOR THIS BILL.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Lawhorn, Hamilton, Morehead, Sierer, Wallace.

Nay – 0.

Absent – Markham.

Ms. Bensley announced staff received direction from Council at the September 24, 2018 Council meeting to begin the process of extraction and dissolution of the Downtown Newark Partnership (DNP) from City Code. The proposed amendments were presented to the Planning Commission at their December 4, 2018 meeting, and to the DNP Design Committee at their December 19, 2018 and January 17, 2019 meetings. The Code sections in Amendment 1 looked at the complete striking of the DNP as it exists, and putting in a new Design Committee structure which mirrored in large-part the parameters around the DNP. Ms. Bensley said Chapter 27 changed references to the Design Committee of the DNP to the Design Committee, reviewing downtown architectural plans, and consulting the partnership’s design guidelines for Main Street in Chapter 32. She informed the audience the changes were part of the wireless tower ordinances that were passed last year; specifically, referring to the Design Committee of the DNP reviewing applications for the placement of new wireless towers. Therefore, the proposed changes would simply change the reference of the DNP to Design Committee as opposed to the DNP. In discussions of the drafts with the Design Committee, Ms. Bensley expressed the option of going to the Design Committee for a potential recommendation to the Planning Commission and to Council was discussed. However, it was ultimately determined that it would be inappropriate for a committee outside the City’s formal boards and commissions structure to have the power to make recommendations on development projects.

For these reasons, Ms. Bensley said there was a recommendation to create a separate Design Committee that would stay as a standing committee with the City. Ms. Bensley said the members of the Design Committee have indicated they would like to remain a City committee; additionally, they made recommendations at their December 19, 2018 and January 17, 2019 meetings regarding the composed membership makeup. Ms. Bensley announced the Design Committee requested some minor changes from the original draft. These changes were incorporated into the final version of the bill that was being presented tonight. The Planning Commission discussed the proposed amendments to Chapters 27 and 32 at their December 4, 2018 meeting; moreover, they unanimously recommended for language involving the DNP be removed. The Planning Commission also requested several terms be capitalized.

For the proposed amendments before Council, Ms. Bensley said the existing Article 2, Chapter 4 would be deleted, and the new article would outline parameters for the Design Committee to be a formal Council-appointed committee. Ms. Bensley expressed the language for this article largely mirrored that

of the soon to be former DNP. In Chapter 27, the changes that would be made would be to strike the “of the Downtown Newark Partnership” and add “from the former Downtown Newark Partnership”. Ms. Bensley announced Chapter 32 would strike “of the Downtown Newark Partnership” to say, “the Design Committee.” Ms. Bensley said the request for Council was to approve the bill as presented, which would sunset the existing DNP and create the Design Committee as a Council-appointed committee. Ms. Bensley announced staff had spoken to the existing Design Committee members; furthermore, those who were interested in remaining on the committee would fill out the Boards and Commissions applications and would be placed on a future Council agenda. Ms. Bensley hoped many of the Design Committee members would be able to make it to the March 11, 2019 agenda so they could continue their work uninterrupted.

Ms. Sierer opened discussion to the table.

Mr. Morehead said he had constituents discuss section 2-45 which referred to the Design Committee’s composition. He referenced the wording which stated, “any of the criteria listed above” in sections one through five. Mr. Morehead stated sections one through five listed two residents, one member with architectural experience, one member with construction or engineering experience, one developer, one representative with experience in cultural arts and one member who met [any] of the criteria listed above. Mr. Morehead believed the word “any” theoretically allowed another developer to be appointed to the board. According to discussions with his constituents, Mr. Morehead said they [constituents] asked if another resident could be substituted in place of a member who met any of the aforementioned criteria. The second issue Mr. Morehead wanted to address was in section 2-46(a) on page 2, where it said, “The Design Committee should select a chair and vice chair from among its members, both of whom shall serve three-year terms.” Mr. Morehead thought this provision was unique to the [former] DNP where he thought they liked to set their ways long-term. According to Mr. Morehead, the City did not have another commission or board where the chair and the vice chair served for three-year terms. He thought the chair and vice-chair for the City’s Boards and Commissions were elected every single year. Mr. Morehead believed this was the case with the Planning Commission and others. Therefore, he thought it would make sense to change the language for the new organization to reflect one-year terms for the chair and vice chair.

Finally, Mr. Morehead asked Council to consider Amendment 2, where the existing design guidelines from Main Street were being taken on and being renamed from the [former] DNP. Mr. Morehead said the guidelines were a 41-page document; moreover, he believed there were a number of problems with the document. First, Mr. Morehead thought the guidelines would be significantly out-of-date [although it was only three-years old]. Secondly, Mr. Morehead said the guideline document looked at each project as an individual building; furthermore, he believed the document wanted each building to fit into the streetscape. Mr. Morehead thought there was nowhere in the City’s system that looked at how the City’s development on a block by block basis. He announced the Comprehensive Plan talked about the whole City of Newark and the Planning Commission took a project by project approach. Mr. Morehead stated the new organization also looked at building by building individually; moreover, he did not think a place or entire block was considered. If the bill was passed as written – without the understanding of asking for the design guidelines from Main Street to be reevaluated – Mr. Morehead thought an opportunity to plan for the future of Newark’s community would be lost. Mr. Morehead believed Council needed to seriously consider this matter.

Ms. Wallace wanted to bring up the idea of expanding the scope of the committee’s purview beyond [just] the downtown area. She believed this piggy-backed with Mr. Morehead’s statements to the effect there were other areas in Newark with historical significance [or certain design aesthetics]. While the downtown area expanded beyond Main Street, Ms. Wallace thought the organization primarily focused on Main Street and its extended area. Ms. Wallace also expressed concern regarding the design guidelines. She thought the design guidelines needed to be updated rather than adopted through the Code. Ms. Wallace expressed Council’s first charge for the committee would be to revisit the design guidelines rather than just adopt the previous DNP’s guidelines. She believed there was a strong potential to expand the committee’s scope and revamp the design guidelines.

During the discussions with the Design Committee, Ms. Bensley said there was definite interest in expanding the scope of the committee’s review of projects from outside the downtown district to other areas of the City. Additionally, the Design Committee discussed the potential to make it a mandatory item as opposed to a voluntary item as was currently the case. According to Ms. Bensley, staff discussed the idea of the need to get the committee established and give them the opportunity to have the time to fully vet what they were looking at. Additionally, Ms. Bensley said the intent for the committee was to work in tandem with the Planning Commission since the Planning Commission had specific charges pursuant to State code. Ms. Bensley clarified the Design Committee definitely looked at expanding the committee’s scope and updating the design guidelines as an early task in their new formation. Since Council gave staff

the charge to sunset the DNP, let The Newark Partnership (TNP) take over, and wanting to fill this hole, staff suggested for the Design Committee's transition to occur first. After the transition, Ms. Bensley said a larger discussion was planned; specifically, regarding the expanded purpose of the organization and what additional items may be appropriate for the new committee.

Mr. Coleman said Section 2-44(b)(1) (page 1) clarified the purpose of the Design Committee was to advise the Planning Commission and Council on matters related to the design of development projects in the City of Newark. He informed the audience the stricken text removed the Downtown District of Newark; moreover, which defined the Downtown Area. For these reasons, Mr. Coleman said the language in the bill tasked the Design Committee with advising the Planning Commission with projects for the whole City. Mr. Coleman said the issue therein was to what standard the Design Committee would hold the Planning Commission to. He clarified the current guidelines only talked about Main Street; however, the revised language permitted the Design Committee to cover the whole town. Mr. Coleman agreed with Ms. Bensley's suggestion to leave the Main Street guidelines in the bill; moreover, if the Main Street text was removed, there Design Committee would have no standard of review. Ms. Sierer agreed with Mr. Coleman and said leaving the Main Street language in the bill would provide the Design Committee with time to review upcoming projects. If no action was taken tonight, Ms. Sierer said the Design Committee would not exist. Ms. Bensley and Mr. Coleman confirmed this was the case. Ms. Sierer believed it made sense for the Design Committee to transition and evolve; moreover, transition time was common in the formation of committees. Mr. Coleman agreed with Ms. Wallace and thought it would be a great first task for the new committee to look at the current design guidelines.

Mr. Hamilton echoed Mr. Morehead's comments to the effect he thought a three-year term was way too long; specifically, since he said there could be a lot of changes to the committee. He wished to gain a consensus from Council on nixing the three-year term for the chair and vice chair in order to bring it back to the standard one-year term. Mr. Hamilton also agreed with Mr. Morehead's comment regarding the provisions for membership to the board. He personally wished to have another resident appointed for a term instead of [potentially] another developer. Ms. Sierer asked Ms. Bensley if she wished to comment on this item. Ms. Bensley said the Design Committee as it existed under the DNP had quite a few staff members on it. Furthermore, it was determined it was not entirely appropriate for staff members to be a part of the Design Committee as a standing Council-appointed committee. For these reasons, Ms. Bensley said the number of residents was increased from one to two; additionally, they considered what steps to take in order to keep an odd number on the committee so they would not have constantly tied votes. Ms. Bensley said there was not necessarily consensus regarding whether there was an additional role that would worthwhile; therefore, the suggestion for a member who met any criteria of the board would be appointed. Ms. Bensley did not think there was any opposition to making the "any member" position filled by a resident. She emphasized the Design Committee was made aware that residents would not be restricted from participating on the committee by items two through five; however, residents would be required to have additional qualifications.

Mr. Coleman was reluctant to limit requirements so narrowly that might make it difficult to fill a position. Therefore, Mr. Coleman said staff determined to keep the position vague and leave the discretion up to Council. Mr. Hamilton announced he favored the holistic approach that was brought up as he favored a holistic approach in designing a City as opposed to a piece-meal approach. Mr. Lawhorn asked if it would be possible to change the requirements for the board's composition to eliminate ambiguity and limit the number of developers on the board. There was discussion at the table, and it was determined the language for the board's composition would stand as it was.

Ms. Sierer opened discussion to the public.

Jean White, District 1, said she was well-acquainted with the Design Committee and attended their monthly meetings for the past 20-years. However, she clarified she was not a member of the Design Committee. Ms. White wished to address two minor word changes. First, Ms. White thought the Design Committee up to this point had focused on the simple business area of Downtown and Main Street. Ms. White referenced Section 2-44(b) on page where the purpose of the Design Committee was addressed. According to the language, Ms. White stated the Design Committee's purpose was to advise the Planning Commission and Council on matters related to the design of development projects. Ms. White thought the language needed to be added to permit the Design Committee's purview to extent to the Downtown area or elsewhere in the City as deemed appropriate. Ms. White thought it might be hard to tackle various hotel projects with the current language and adamantly believed an updated was needed. Regarding Amendment 2, Ms. White pointed out the Downtown area was mentioned already; specifically, the Planning Commission and Council may consider comments from the Design Committee in reviewing Downtown architectural plans. Ms. White thought the language should be amended to include the Downtown area and other City architectural plans. She thought the language around conflicts of interest

needed to be updated to include review by a Newark citizen outside the Design Committee. In other words, Ms. White thought someone who was not on the Design Committee could also bring a concern they had regarding conflicts of interest. Ms. White believed the section on conflicts of interest needed to include provisions to seek advice from the City Solicitor or Board of Ethics.

John Morgan, District 1, generally agreed with the comments made previously by Ms. White. Dr. Morgan suggested the area – for which the Design Committee would make recommendations – should be defined by zoning districts. Moreover, Dr. Morgan thought the current area was considered in terms of business districts as opposed to a development project such as a residential development. Dr. Morgan also was concerned with what he considered a potential for future abuse of the definition of the committee; specifically, since it said the committee should consist of no less than seven members. Dr. Morgan thought this would open the door to something similar to what happened on the Supreme Court; moreover, with stacking the Supreme Court. He did not believe this was the case with the current Council members; however, Dr. Morgan thought they should look ahead five or ten years. Dr. Morgan personally desired for all members on the Design Committee to be Newark residents. He expressed he would be a lot less worried about a developer who also was a Newark resident than a developer who lived 20 miles away and only saw Newark as a place to do business. Dr. Morgan referenced Section 2-46(d) and thought the word “summary” should be removed. According to Dr. Morgan, summary minutes could be extremely brief with no details. Instead of spending the evening wordsmithing, Dr. Morgan thought staff should bring the bill back with some of the changes as recommended by several Council members unless they wished to have a series of amendments with votes. Dr. Morgan believed it was important for the Design Committee’s composition to be right; furthermore, he wished to see as many residents as possible on the committee. He suggested the potential to place an upper limit on the number of developer representatives on the Design Committee; furthermore, Dr. Morgan said there was the potential for residents to be developers. While he thought there were many developers who lived in the City of Newark who were good people, Dr. Morgan was concerned the developers’ perspectives might be different from residents who were not developers. Dr. Morgan thought it would be easy to find a resident with experience in the cultural arts from the University; specifically, since the University had music, art and theater departments.

There was no additional public comment; therefore, Ms. Sierer brought discussion back to the table. She asked Mr. Morehead if he would like to make one amendment with many included. Mr. Morehead said he wished to understand Council’s thoughts about what Ms. White mentioned regarding Amendment 2, item 3; specifically, where it mentioned Downtown architectural plans. Additionally, Mr. Morehead echoed Dr. Morgan’s statement to the effect he thought Council needed to decide what area they wanted the Design Committee to look at. Mr. Morehead thought these decisions needed to be made before Council could blindly go in and make amendments. Ms. Bensley informed the audience this concern came up at the Planning Commission; specifically, regarding changing the scope of the Design Committee within the subdivisions and the Zoning Code. She said it was the consensus from the Planning Commission that this matter should part of a larger discussion after the committee was established. Ms. Bensley stated the particular change – since it was a change to Chapter 27 – required the Planning Commission to review all changes to that chapter. For this reason, Ms. Bensley thought it was a substantive change that would not permit the bill to move forward this evening. Mr. Bilodeau confirmed this was the case. When Mr. Morehead changed the word “any”, Mr. Bilodeau thought they would be able to avoid substantive changes. However, considering the amount of proposed changes, Mr. Bilodeau thought they were in the area of substantial changes. Mr. Bilodeau advised for the matter to be brought back to the drawing board.

Mr. Morehead agreed with Mr. Bilodeau’s suggestion to take the matter back to the drawing board. He thought the conversation was productive and described the Design Committee as an advisory commission. Ms. Sierer asked what this decision meant for the current Design Committee. Ms. Bensley said if the bill was sent back, the DNP would still exist and the Design Committee would continue to exist in its current form. Ms. Sierer thought this meant there would be no disruption for the Design Committee. Ms. Bensley confirmed the Design Committee would not change until a bill was brought back and passed. She noted the bill would not be brought back and passed within the next four weeks.

Ms. Wallace thought the wording in Amendment 3 – the placement of new towers in the Downtown District – needed to be changed if the wording in Amendment 2 was altered. According to Ms. Wallace, she did not believe the Design Committee’s scope was necessarily expanded by making those changes of Downtown in Amendments 2 and 3. In Amendment 2, Ms. Wallace said it mentioned the Planning Commission and City Council may consider comments from the Design Committee. Ms. Wallace did not believe this provision would force the Design Committee to make comments on every plan; however, she thought it would keep Council from having to come back and change the wording again. She thought Council should make changes that would reflect what they eventually hoped to see; therefore, Ms. Wallace thought it would still permit the Design Committee with the time to develop.

Ms. Bensley said the changes that Council hoped to make would be required to go back before the Planning Commission. She questioned whether Council wanted a preliminary discussion – including the Design Committee on what they would like to see their role to be as well as what Council wanted to see – before the matter happened again. Ms. Bensley also asked for clarification whether Council would prefer for staff to go through the process and bring back a bill based on tonight’s comments. However, Ms. Bensley said there would be an understanding that the Design Committee may have additional ideas that could potentially be incorporated. Ms. Sierer thought the changes and bill needed to go to the Design Committee; additionally, she thought it needed to come before Council for discussion again before it went to the Planning Commission. If the matter was brought to the Planning Commission based on the Council’s discussion tonight, Ms. Sierer thought there may be additional changes again when it came back to Council. Mr. Hamilton asked Ms. Sierer if Council could pass the bill as it exists and make changes. Ms. Bensley said the bill would be able to move forward tonight if it was left as it exists. However, if changes were made to Chapter 27 and 32, the bill would be required to go back to the Planning Commission.

Ms. Wallace thought the matter would be required to go through the Planning Commission again, whether changes were made this evening or in the future. Ms. Sierer thought it was fine as the Design Committee would still be able to function until staff and Council figured out the changes and got the bill passed. Ms. Sierer said there was no real urgency in ending the DNP as it was no longer meeting. Mr. Coleman confirmed this was the case. If Council ended the DNP and started the Design Committee, it would be necessary to appoint members at that point; moreover, if the membership makeup was altered, change would be necessary. Ms. Sierer believed the DNP should not be ended until the Design Committee was figured out.

MOTION BY MR. MOREHEAD, SECONDED BY MR. CLIFTON: THAT COUNCIL APPROVE BILL 19-02 AS PRESENTED.

MOTION FAILED. 0 to 6.

Aye – 0.

Nay – Clifton, Lawhorn, Hamilton, Morehead, Sierer, Wallace.

Absent – Markham.

25. 10. RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING & DEVELOPMENT DEPARTMENT:

- A.** Request of Rashid, Inc. for a Special Use Permit for a Used car Lot at the Property Located at 804 South College Avenue, Newark, Delaware, with Accessory Parking at the Property Located at 810 South College Avenue, Newark, Delaware.

3:08:55

Ms. Bensley read item 10-A into the record.

MOTION BY MS. WALLACE, SECONDED BY MR. CLIFTON: THAT THIS BE THE PUBLIC HEARING FOR THIS ITEM.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Lawhorn, Hamilton, Morehead, Sierer, Wallace.

Nay – 0.

Absent – Markham.

Mr. Fortner referenced the staff report provided to Council (dated February 14, 2019) and stated the matter was in regard to the Shell Service Station and Special Use Permit (SUP). He announced the applicant requested the option to operate his business with the accessory use as a used-car lot; moreover, the SUP would permit the applicant to sell used cars at the location as well as continue his business with the service station. As a part of this, Mr. Fortner expressed this would diversify the applicant’s revenue streams. Mr. Fortner said the project also would involve improvement of the site at 810 South College Avenue for accessory parking for that location. According to Mr. Fortner, the current lot at 810 South College Avenue was a developable lot. He said the accessory parking request for the lot was a lesser-impact use than a retail store or similar institution. Mr. Fortner expressed the applicant did not anticipate the used-car lot would be a large business; specifically, the applicant anticipated to have one or two customers on a good day. In order for a SUP to be granted, Mr. Fortner said the applicant would need to demonstrate the proposed use would not adversely affect the health or safety of persons within the City of Newark. Additionally, the applicant would need to demonstrate the proposed use would not be detrimental to the public welfare or injurious to personal property. Finally, the proposed use could not be in conflict with the purposes of the City’s Comprehensive Development Plan.

Given the small size of the lot [810], Mr. Fortner said the Planning and Development Department recommended limiting the parking requirements to no more than 20 cars for sale at any one time. Mr. Fortner said the proposed use met the Zoning Code's SUP criteria; additionally, no relevant City departments objected to the proposal. For these reasons, Mr. Fortner said the Planning and Development Department recommended for City Council to approve the SUP for a used car lot at 804-808 South College Avenue with the conditions stated in the Departmental Report (dated February 14, 2019). Mr. Fortner announced the Planning and Development Department received some emails regarding this issue that expressed concern regarding people test-driving a car and going on Plymouth Drive. Mr. Fortner believed the applicant would instruct users not to go on local, residential streets; specifically, the applicant would ask users to stick to the main road. Additionally, Mr. Fortner expressed the applicant was open to limits on the size and location to minimize the impact to the surrounding area. Mr. Fortner said Fazal Rashid, applicant, was in attendance and would be able to answer questions.

Ms. Wallace asked Mr. Fortner to clarify the number of parking spaces the applicant was required to have [for the main business] per the City's Zoning Code. Mr. Fortner believed the number of parking spaces would be limited to the number of spaces they had on the main property. While he was not sure of the exact parking requirements for the service station/gas station, Mr. Fortner expressed the applicant's station was in compliance. Ms. Wallace asked if the required parking would come out of the 20 recommended cars. Mr. Fortner said the applicant would improve the parking lot at 810 South College Avenue; therefore, it would involve additional storage. Since the applicant would be required to meet the City's requirements, the applicant would need to submit their plan to show the number of cars for sale met the parking requirements. Mr. Fortner thought these provisions would further limit the number or types of vehicles the applicant was able to sell if they cut into 20 car recommendation. Ms. Wallace expressed it was still unknown as to how many parking spaces the applicant would be required to have on this lot. Mr. Fortner said the City could set a cap on the number of cars; moreover, the number allowed could be limited further if the applicant was unable to provide the required parking.

Ms. Wallace thought the accessory use would require the applicant to have additional parking spaces for customers. She expressed the additional parking spaces would be separate from the number of cars that the applicant wished to sell. Ms. Wallace asked how many parking spaces the applicant would need in order to fulfil that requirement. She believed this was an important concern if the number of cars were limited to 20; specifically, Ms. Wallace wondered if the required parking spaces would come out of that 20. Mr. Fortner said the applicant would be required to meet the parking requirements for the site. He stated the additional parking the applicant had could be used for car storage. Ms. Wallace asked if this would alter the total number of spaces the applicant would have for used cars. Ms. Gray announced the existing use for the service station was already approved; moreover, the parking requirements for the service station were already approved. Ms. Wallace asked if the accessory use triggered additional required parking spots. Ms. Gray did not think this was the case and expressed she would double check the Code to confirm. Ms. Wallace believed this was important to consider. She did not see any concerns listed in the staff report regarding storm water. Ms. Wallace thought some of the lot (810 South College Avenue) was paved; however, a portion of the lot was covered by grass and trees. She questioned whether this concern was raised by the Public Works and Water Resources Department (PWWR).

Mr. Fortner said this concern was not addressed by PWWR; however, the applicant would be required to submit a plan and apply for a building permit to conduct the parking lot improvements. Mr. Coleman said his expectation was for the applicant's plan to fall under a non-residential, standard plan which he described as fairly routine. Ms. Wallace questioned whether this would require the applicant to implement some sort of storm water management for the paving of the lot. Mr. Coleman said this was not necessarily the case; specifically, the applicant would be required to meeting the requirements for a non-residential, standard plan. If the lot size was a certain size – and they did not change the curve number (percentage of water that ran off) by more than a certain amount – the applicant would be exempt from having to do anything. In the applicant's case, Mr. Coleman expected the lot to be largely paved and said he would be surprised if the applicant had to do anything; moreover, he clarified the grass area was [effectively] impervious already. Ms. Wallace announced there would be additional lighting in the area; however, it would be shaded per City Code. She informed the table that Mr. Fortner emailed her and advised her the proposed hours would be from 10:00 a.m. to 5:00 p.m.

Fazal Rashid, applicant, stated his name for the record. Ms. Wallace asked Mr. Rashid if he proposed additional signage for the used-car portion. Mr. Rashid stated he was not proposing additional signage. Ms. Wallace questioned whether Mr. Rashid proposed any screening at the back of the property between the used car lot and any homes. Mr. Rashid confirmed there already was a fence in the area that went across the entire property. He referenced Ms. Wallace's earlier question about parking. Mr. Rashid said any car that would be sold would be placed at the front part of the property. The entire back area of the property behind the building where the gas station and mechanic shop were located had about 20

parking spaces. Mr. Rashid announced most customers would park in the 20 spaces in the back area of the property. He clarified either he or his staff would drive the cars in the front of the property.

Mr. Morehead asked Mr. Fortner for clarification regarding the satellite view; specifically, whether the boxes referred to actual dimensions of standard parking sizes. He thought there would be 26 additional cars. While Mr. Morehead acknowledged there would be parking on the main site, he believed it had not yet been identified as to how many required spots were there. Mr. Morehead expressed concern for the property at 810 South College Avenue; specifically, there would be additional parking requirements [in addition to the main site] for that business. Mr. Morehead did not see the opportunity for 20 cars at that site. Additionally, Mr. Morehead reminded Council the applicant had the responsibility to demonstrate the proposed use would not adversely affect the health or safety of persons within the City of Newark. Mr. Morehead said the applicant would need to demonstrate the proposed use would not be detrimental to the public welfare or injurious to personal property. Finally, Mr. Morehead stated the proposed use could not be in conflict with the purposes of the City's Comprehensive Development Plan.

Since the matter at hand was a SUP, Mr. Morehead expressed Council was not required to grant it. However, the applicant was required to demonstrate the above referenced criteria. Mr. Morehead was unsure as to how one would demonstrate that a change such as this not affect the residential area immediately behind it. While he was willing to listen, Mr. Morehead emphasized the reasoning so far did not make sense.

Mr. Clifton said the statement was made which implied the applicant would have 20 cars; however, he stated the applicant did not anticipate more than two visitors per day. Other than being in the military, Mr. Clifton said he spent most of his life in the automotive world. Mr. Clifton questioned what empirical data was utilized to base the assumption of 20 car spaces with two visitors per day. Mr. Fortner said the applicant's request was in reference to an accessory business; moreover, 20 cars was the maximum allowable amount. Mr. Clifton clarified his question to the effect he referred to how many people would see the cars. Mr. Fortner announced he would refer to the applicant on this matter. Mr. Rashid said 20 was the number which provided him with a cap. Mr. Clifton said his question referred to what data the applicant used to come up with the number of customers each day. Mr. Rashid expressed this calculation was based on what they observed; specifically, since he ran the mechanic shop in the area for about four years. During this time, Mr. Rashid said people came in and asked whether he had cars for sale. Moreover, Mr. Rashid expressed they did not get more than one or two inquiries per week. Mr. Clifton said it appeared the applicant did not sell cars and had people coming in [a couple a day]. He asked Mr. Rashid whether he anticipated the number of customers would increase once he advertised that he was selling cars. Mr. Rashid announced he did not plan to put any kind of signs up and expressed it would not be similar to Cleveland Avenue. He clarified most of the parking would be used for customers who came into the shop to get their cars fixed.

Mr. Clifton assumed Shell Oil or their subsidiary owned 804 and 806 South College Avenue. He questioned if Shell Oil or their subsidiary owned 810 South College Avenue. Mr. Rashid clarified Southern Maryland Oil owned the entire property which extended up to Malin's Deli. Mr. Clifton believed 810 South College Avenue was a separate property with a separate zoning designation. Mr. Clifton expressed he was far from comfortable in saying the applicant would pack one lot and [hopefully] the other lot would sustain parking. He believed the parking requirements should clearly be provided for both lots. If the property at 810 South College Avenue was not owned by the same company as the others (Southern Maryland Oil), Mr. Clifton believed the lot would have its own separate parking requirements. Mr. Rashid claimed the entrance to the property would be a factor if it was not owned by Southern Maryland Oil; specifically, the property currently allowed people to come in and out from Route 896. He clarified the entrance and exit to Route 896 [from the property located at 810 South College Avenue] would be closed; therefore, the only way in and out from the property would be through the gas station. Mr. Clifton asked if DelDOT was required to weigh in on this matter. Mr. Fortner said DelDOT thought the use was minimal and would have very little effect.

Mr. Lawhorn told Mr. Rashid he had a general idea of what he wanted to accomplish and believed the proposal sounded alright. However, Mr. Lawhorn expressed concern since the plan provided to Council and staff did not necessarily affect what the applicant said. He informed Mr. Rashid he believed his plans needed to reflect what was requested in a better manner. Mr. Rashid asked Mr. Lawhorn to clarify his request. Mr. Lawhorn said the parking issue needed to be clarified and stated there were 26 drawn out squares on the plan. Since the squares appeared to be hand-drawn, Mr. Lawhorn was unsure if they really reflected where cars would be parked. Moreover, Mr. Lawhorn was not able to tell from the plan which cars would be for sale versus where customers would park. Since there were many entrance and exit points to the property, Mr. Lawhorn had trouble envisioning the area in question and details of the project for potential approval. Mr. Rashid said there were three entrances. Mr. Lawhorn understood

the entrance points and acknowledged Mr. Rashid had traffic patterns drawn out. Mr. Rashid expressed there was one entrance currently from West Chestnut Hill Road, and the one on Route 896 served as both an entrance and exit point. Mr. Lawhorn restated a technically accurate rendering would be helpful to show where cars would be parked, what the traffic flow would look like in the area and where cars would come in and out. Mr. Rashid restated the entrance and exit points from the property at 810 South College would be blockaded; therefore, no one would be permitted to drive in or out of the area. He emphasized there was no way to get into the property/parking lot at 810 from Route 896. Mr. Lawhorn believed it would be important to listen to any concerns from the residents in the area prior to making a decision.

Mr. Hamilton asked for clarification regarding what the different colors stood for on the rendering. Ms. Sierer directed Mr. Rashid to take the rendering from the dais and answer Mr. Hamilton's questions at the podium. Mr. Rashid said the dark blue square with black lines around it depicted a 20-foot container. Ms. Sierer asked Mr. Rashid if the container would remain on the lot and he confirmed this was the case. Mr. Rashid clarified the container was used to store the shop's equipment. He said there were four spots in the back of the lot which were reserved for customers' vehicles; specifically, for customers that needed an engine repair and were waiting for available funds to pay for service. Mr. Hamilton asked Mr. Rashid whether he would park vehicles for sale in any of the four long-term parking spaces. Mr. Rashid reiterated the only vehicles for sale would be parked in the front of the lot. Mr. Hamilton asked Mr. Rashid if there would be approximately five cars for sale. Mr. Rashid said there would be five cars for sale and the customers' vehicles in for repairs would be parked in the middle. He emphasized parking would not be blocked at the gas station.

If the parking lot were utilized for overflow parking for Mr. Rashid's customers without sales, Mr. Hamilton questioned whether the discussion would be different. Furthermore, Mr. Hamilton questioned whether the fact that the request was for a SUP for a car sale business made the matter at hand different. Mr. Fortner said a building permit would be required [instead of a SUP] if the request was only to build a parking lot without the car-sale lot. According to Mr. Fortner, a SUP was being requested by the applicant to allow him to sell cars on the lot.

Ms. Sierer opened discussion to the public.

Peter Drake, Plymouth Drive, had lived there since 1979. For as long as Mr. Drake remembered [for at least the past 50 years], there had always been a station on the corner. He said another Exxon station and Malin's Deli were located nearby. Mr. Drake stated there were 14 single-family homes on Plymouth Drive behind the Shell Station. While it he acknowledged Mr. Rashid indicated they would advise customers to keep off Plymouth Drive, Mr. Drake thought this would not always be the case. Mr. Drake did not believe a used car lot was consistent with the neighborhood. Mr. Drake was concerned the used-car lot would affect property values.

Ken Malin, owner of Malin's Deli, had property adjacent to the proposed lot on 810 South College Avenue and had no objections whatsoever to Mr. Rashid's request. He informed the audience he had been at Malin's Deli for over 40 years. Mr. Malin said Mr. Rashid's property was previously owned by George High; moreover, the building sat vacant for many years. According to Mr. Malin, Mr. High's building was an eyesore. Eventually, the building was taken down and all that remained was a grass lot. Mr. Malin said Mr. Rashid fixed up the lot; moreover, Brian – the individual who would be in charge of the lot at 810 South College Avenue – painted the side of his building. Additionally, Mr. Malin said landscaping improvements were made and the property looked much better than it did before. Mr. Malin restated he had no objections to the proposed use; moreover, he personally knew Mr. Rashid and described him as a decent man and good business owner. Furthermore, Mr. Malin did not think the used car lot would increase that much traffic in the area. Mr. Malin believed Mr. Rashid paid a significant amount of money to rent his station and thought the addition of a used-car lot would help him pay the bills. Ms. Sierer asked Mr. Malin if cars were currently parked in the lot and he confirmed this was the case. She asked Mr. Malin for a rough estimate of how many cars were parked in lot. Mr. Malin thought there were approximately half a dozen cars parked in the lot. Additionally, Mr. Malin confirmed residents did not complain and he did not complain since there were cars parked in the area. Mr. Malin restated it was not as if Mr. Rashid would tear up the lot and believed he operated a well-run business.

Sandra Kosc, 11 Plymouth Drive, said she was Mr. Drake's neighbor. Ms. Kosc described Plymouth Drive as a one-way street. She echoed Mr. Malin's statements to the effect the lot looked good. Ms. Kosc addressed the comment made by Ms. Wallace which thought the increase of customers to the business would increase parking areas in the establishment. She believed there would be more than two customers a day with the addition of the used car lot business if the business flourished. Ms. Kosc was concerned with where the customers that wanted to purchase used cars would park. She thought the first idea customers would have would be to park around the corner on Plymouth Drive. Ms. Kosc said traffic often

used Plymouth Drive as a shortcut; additionally, there was one-way traffic that came from West Chestnut Hill Road which traveled the wrong way many times. She believed there were many close calls with collisions on Plymouth Drive; therefore, it was more than just a little quiet street. Ms. Kosc said many of Plymouth Drive's residents parked on the street. She restated her concern to the effect she believed customers of the used car lot would park on Plymouth Drive if there was not enough parking. Ms. Kosc did not want Plymouth Drive to become a public property for customers in this establishment. She said there was a serious fatal accident nearby which indicated it was a very busy place.

Bernard Kosc, 11 Plymouth Drive, said he lived on Plymouth Drive since 1968. He echoed many of the comments made by Mr. Malin; however, he had a concern with a particular issue. Even though the Newark Police Department (NPD) had no objection to the proposed use, Mr. Kosc believed it was a very dangerous intersection. Cars that came down West Chestnut Hill Road were able to access the gas station from that road or from Route 896. Mr. Kosc thought it was far-fetched to claim there would only be two customers per day. He asked if a study could be performed before any permissions were granted.

Bonnie Hobbs, 2 Plymouth Drive, said she and her husband lived at this location for over 18 years. While she acknowledged Mr. Rashid cleaned up the lot and thought it looked good, Ms. Hobbs said people who owned businesses on Route 896 were not required to live there. Furthermore, they did not live on a one-way street like Plymouth Drive. Ms. Hobbs said Plymouth Drive ran parallel with the Shell and the Exxon; therefore, an entire row of houses – including Ms. Hobbs' house – were right in the back yard. Ms. Hobbs announced there were many people who traveled the wrong way on Plymouth Drive; furthermore, she did not think it would be possible to limit additional traffic on the road by simply telling customers not to drive or park there. Ms. Hobbs thought Mr. Rashid did not present a clear picture or concrete amount of how many cars would actually be in the lot. She was concerned there was not enough parking for 26 cars; furthermore, she believed it would create a lot of traffic on Plymouth Drive. Ms. Hobbs wondered how Mr. Rashid would sell 26 cars in a lot if he did not put up an advertisement sign. She believed there would be more than two customers or cars per day. Ms. Hobbs thought the quality of life for residents on Plymouth Drive would be affected.

As she currently understood the matter, Ms. Sierer thought Mr. Rashid said he would have six cars for sale on the front. Mr. Rashid stated there would be a maximum of six cars for sale. He announced 20 cars was the maximum number of cars permitted in the lot. Ms. Sierer asked Mr. Rashid what the other 14 parking spaces were for. Mr. Rashid said the remaining 14 were customers' cars that were being worked on in his shop.

Ms. Sierer brought the discussion back to the table for further deliberation from Council.

Ms. Wallace asked what Mr. Rashid planned to do with the lot if the SUP was not granted. Mr. Rashid said the lot would be used for parking if the SUP was not granted. Ms. Wallace questioned whether Mr. Rashid would follow through with improving the lot and paving it, regardless of whether the SUP was granted. Mr. Rashid confirmed this was the case. Ms. Wallace asked staff if parking was permitted if the SUP was not granted. Mr. Fortner confirmed the SUP was only in reference to the used car lot. Ms. Wallace asked Mr. Bilodeau if it was possible to grant the SUP by the hours of the business. Additionally, she questioned whether the SUP could be limited by the number of cars. Mr. Bilodeau confirmed it was possible to grant the SUP by the hours of the business and well as limit it by the number of cars. According to Mr. Bilodeau, these methods were previously utilized before and referenced the SUP for Kildare's. Mr. Bilodeau informed the audience they limited Kildare's hours of operation. He expressed Mr. Rashid already committed to the hours of operation that he would sell the cars; therefore, it was possible to limit the number of cars on the lot as part of the SUP. Ms. Wallace believed this matter was a balance between the neighbors' concerns and the applicant trying to run a business; however, whether or not there were used cars of the site, Ms. Wallace said the applicant planned on improving the lot and using it for parking for the garage. Ms. Wallace expressed she lived in the area and was aware there usually were three or more cars parked out in front. She proposed that Council allowed the SUP, but limit the used car sales to under 10. Additionally, Ms. Wallace thought sales should be limited to only between the hours of 10:00 a.m. - 5:00 p.m. Ms. Wallace asked Mr. Rashid if he would agree to these terms and Mr. Rashid confirmed this was the case.

Mr. Bilodeau told Ms. Wallace some of the cars being repaired might not be tagged because they did not work. Therefore, Mr. Bilodeau thought there needed to be some way to ascertain which cars were for sale verses repair for enforcement purposes. Ms. Wallace asked staff for recommendations on how to handle this. Mr. Rashid said they had all customers' information and their vehicles when they came in for repair. Mr. Fortner thought a for-sale sign should be implemented and believed it would be a feasible approach to mark cars for sale with a special tag; moreover, Mr. Fortner thought this would a way to distinguish between cars that were there for repair verses sale. Ms. Wallace asked Mr. Bilodeau if the

tag/identification markers would need to be attached to the SUP. Mr. Bilodeau said the number of cars and delineation by a for-sale sign would be a condition of the SUP.

Ms. Sierer invited members of the public to comment that did not receive the chance to do so.

Brian Hayes, 50 Welsh Tract Road, said he lived around the corner for the site in question. He respected and appreciated the concerns expressed about test drives; however, Mr. Hayes thought it would be more feasible for customers to test drive a car down Welsh Tract Road instead of Plymouth Drive. He did not have a problem with traffic on Welsh Tract Road as he said the road already was highly traveled. Mr. Hayes announced he had been in the car business; furthermore, the Delaware Department of Motor Vehicles [at the least] required a Federal Trade Commission (FTC) buyer's guide to be displayed in every vehicle for sale by a licensed dealer. Mr. Hayes thought Mr. Rashid needed to become a licensed dealer to fulfill the requirements. He believed Mr. Rashid's shop was a great business and announced he personally had his cars repaired there. Mr. Hayes did not believe the used-car lot would increase or disrupt traffic on Plymouth Drive. Additionally, Mr. Hayes thought dealers needed to have close to 40-60 cars in order to sell four or five; especially, during this time of the year and others when certain lulls of the industry occurred. Mr. Hayes said he was in favor of Mr. Rashid's request and thought it would be nice to have an affordable used car lot that was not located on Cleveland Avenue.

John Morgan, District 1, believed there was a question of enforcement. Dr. Morgan thought the simplest way to enforce this would be to have a designated area on the property where the used cars are displayed. According to Dr. Morgan, he thought the ideal location for used cars would be near the front of the property so people would notice them as they drove by. Dr. Morgan also believed there should be a customer parking area, probably close out front, so it did not disturb neighbors in the back.

Ms. Sierer brought discussion back to the table.

Mr. Morehead believed there were two ways to sell a car. First, a car could be parked outside on the street with a noticeable for sale sign. As people drive by who might need a car, Mr. Morehead thought they would see the sign [or in Mr. Rashid's case many signs on many cars]. After people saw the sign, then he believed they would slow down and turn around. In this scenario, Mr. Morehead thought people would pull into Malin's Deli. He also believed people would keep going until they reached the next gas station; moreover, it was possible that people would choose to turn around on Plymouth Drive. Mr. Morehead thought the other scenario would be if a car was listed for sale on Craigslist; furthermore, people would know where to come see the car because the location would be advertised. Mr. Morehead thought the first example/scenario is what was trying to be accomplished and believed it was a mistake. He thought it would be problematic for the neighborhood.

Mr. Clifton echoed Mr. Morehead's comments and said he was further concerned since there was a blended use of two automotive businesses. According to the view from Google Earth, Mr. Clifton said there appeared to be five or six cars parked in the area that would be used to drive to the rear. Because it was a blended use with repair and sales, Mr. Clifton thought the parking limits would not be enforceable. Mr. Clifton anticipated a litany of questions from the neighbors; furthermore, he thought the neighbors might think there were more cars for sale in the lot than were permitted. He believed the matter at hand was an issue of the rule of law and a SUP.

Considering Ms. Wallace's proposal which set a requirement on the SUP for 10 cars or less, Mr. Lawhorn's concerns were relieved as to what he observed in the rendering. He believed limiting the number of cars for sale to 10 was appropriate and would provide plenty of room for parking. Mr. Lawhorn stated the sales would within a limited time frame of 10:00 a.m. to 5:00 p.m.; additionally, he did not believe that 10 cars for sale would greatly increase the amount of traffic in the area. Mr. Lawhorn stated he drove through the area every day. Furthermore, he did not believe parking on Plymouth Drive would be an issue for residents. Mr. Lawhorn thought the potential for traffic of cars that turned around on Plymouth Drive existed; however, he did not believe the quantity would be noticeable when compared to what it was today. Mr. Lawhorn restated his previous concerns were addressed; additionally, he did not think the safety of the area would be adversely affected.

Mr. Hamilton agreed with Mr. Morehead's statement regarding the parking and how it would be unenforceable. He believed the area was horrible from a traffic and safety standpoint; furthermore, Mr. Hamilton said putting sale signs on cars would cause issues there.

Ms. Sierer said this matter was tough for her since the applicant had parked cars there for at least four years. She believed Mr. Rashid informed Council that he basically sold one or two cars at the location per week and Mr. Rashid confirmed this was the case. Ms. Sierer said Mr. Rashid sold cars and used the

lot for customer parking; moreover, she announced Mr. Rashid was trying to do the right thing by coming before Council to get the SUP for things he basically already was doing. If there were six cars out front, Ms. Sierer thought Mr. Rashid might sell more than one or two cars per week. She restated Mr. Rashid was trying to do the right thing when he could have just paved the lot and continued with what he was doing. Mr. Rashid confirmed this was the case. Ms. Sierer was not sure that penalizing Mr. Rashid completely by not approving the SUP was the right thing to do. She believed Council needed to come up with a compromise.

Ms. Wallace thought SUPs were revocable and asked Mr. Bilodeau what the process would be to revoke the requested SUP. She asked what the first step would be if neighbors complained about the lot and asked for clarification regarding due process in this matter. Mr. Bilodeau referenced the recent suspension of a SUP for a restaurant in town; furthermore, the point policy addressed a suspension of 30-days. He said City Code provided the potential for Council to suspend or revoke a SUP for up to a year if guidelines were not followed; moreover, due process would be given. Mr. Bilodeau said the Planning and Development Department would be required to write a report with recommendations, then Council would conduct a hearing as to whether or not to revoke the SUP. Ms. Wallace asked if SUP were able to be suspended instead of revoked in the Code; therefore, using the word revocable was incorrect. Mr. Bilodeau said he was struck with the language as Council would only be able to suspend the SUP for up to a year. He clarified the Code provision limited suspension of a SUP to a year and did not refer to permanent revocation. In light of Mr. Bilodeau's comments, Ms. Wallace said she was unwilling to move forward with the SUP. If the SUP did not work out, Ms. Wallace thought the neighbors would be stuck with it.

Mr. Hamilton expressed concern regarding earlier comments. He asked Mr. Rashid if he had in the past or currently sold vehicles. Mr. Rashid said he sold maybe one or two cars. Mr. Hamilton asked Mr. Bilodeau if this was legal. According to Mr. Bilodeau, a citizen who sold a car was not required to have a business license; however, a business was required to get a dealer's license. Mr. Bilodeau said most places that sold used cars had dealer tags. He informed Mr. Rashid he would need to register with the Division of Motor Vehicles for a dealer tag in order for customers to test drive vehicles. Mr. Bilodeau emphasized it was not legal to drive an unlicensed car on the road. Mr. Hamilton asked if Council should decide to give someone a SUP; specifically, if they made the excuse of the applicant already sold vehicles. Ms. Sierer told Mr. Hamilton that was not what she said. Mr. Clifton asked Mr. Rashid if Southern Maryland Oil owned the property and if he was a tenant. Mr. Rashid confirmed this was the case. Mr. Clifton questioned whether the SUP would go with the property. Mr. Bilodeau confirmed the SUP would go through the property. Mr. Clifton wanted to know how Council could be sure that Southern Maryland Oil agreed to have their property changed in that manner. Mr. Rashid clarified the application for the SUP had Southern Maryland Oil's signature.

Ms. Sierer announced each member of Council would be required to vote individually and state their reasons for the record.

MOTION BY MS. WALLACE, SECONDED BY MR. LAWHORN: TO APPROVE THE REQUEST OF RASHID, INC. FOR A SPECIAL USE PERMIT FOR A USED CAR LOT AT THE PROPERTY LOCATED AT 804 SOUTH COLLEGE AVENUE, WITH ACCESSORY PARKING AT THE PROPERTY LOCATED AT 810 SOUTH COLLEGE AVENUE, NEWARK, DELAWARE.

Ms. Wallace said she would not support the SUP because she thought it would adversely affect the health and safety of persons residing or working within the City of Newark boundaries; additionally, Ms. Wallace thought it would be detrimental to the public welfare or injurious to property or improvements in the City.

Mr. Morehead announced he would not support the SUP for the reasons stated by Ms. Wallace.

Mr. Clifton announced he would not support the SUP for the reasons stated by Ms. Wallace.

Mr. Lawhorn said he would support the motion as he did not believe it adversely affected the health or safety of persons residing or working within the City of Newark boundaries and within the State of Delaware. He did not think the SUP conflicted with the purposes of the City's Comprehensive Development Plan.

Mr. Hamilton announced he would not support the SUP for the reasons stated by Ms. Wallace.

Ms. Sierer announced her support for the SUP for the reasons stated by Mr. Lawhorn.

MOTION FAILED. VOTE: 2 to 4.

Aye – Lawhorn, Sierer.
Nay – Clifton, Hamilton, Morehead, Wallace.
Absent – Markham.

- 26. 11. **ITEMS SUBMITTED FOR PUBLISHED AGENDA:**
 A. Council Members: None.
- 27. 11-B. **OTHERS:** None.
- 28. **Meeting adjourned at 11:11 p.m.**

Renee K. Bensley, CMC
Director of Legislative Services
City Secretary

/wcp